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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Iraq

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the attached interim report prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, in accordance with paragraph 14 of Commission on Human Rights resolution 1994/74 of 9 March 1994 and Economic and Social Council decision 1994/278 of 25 July 1994.

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I. INTRODUCTION

1. In accordance with paragraph 14 of Commission on Human Rights resolution 1994/74 of 9 March 1994, as approved by Economic and Social Council decision 1994/278 of 25 July 1994, the present report constitutes the interim report of the Special Rapporteur on the situation of human rights in Iraq. A final report will be submitted to the Commission on Human Rights at its fifty-first session.

2. In carrying out his mandate, the Special Rapporteur has again examined a wide range of information pertaining to general and specific allegations submitted through testimony and in documentary form, including script and audio- and video-recordings. In analysing this information, supplemental information has been sought from various sources, including scientific institutes. However, direct access to locations within Iraq has not been possible owing to the Government of Iraq's refusal so far to cooperate with the United Nations in receiving a return visit of the Special Rapporteur to Iraq and, more importantly, the stationing of human rights monitors throughout Iraq pursuant to resolutions of the General Assembly and the Commission on Human Rights.

3. In implementation of paragraph 11 of Commission on Human Rights resolution 1994/74 regarding the sending of human rights monitors "to such locations as would facilitate improved information flows and assessment and would help in the independent verification of reports on the situation of human rights in Iraq" and notwithstanding the Government of Iraq's refusal to cooperate with the placement of human rights monitors inside Iraq, the Special Rapporteur requested in the last few months the sending of staff members of the Centre for Human Rights of the United Nations Secretariat to the United Kingdom of Great Britain and Northern Ireland, Kuwait and the Islamic Republic of Iran. These locations were chosen because of the possibility of obtaining relevant information from persons there who claim to be victims of, or eyewitnesses to, human rights violations committed by the Government of Iraq.

4. The first mission referred to above took place from 3 to 6 May 1994, when a staff member from the Centre for Human Rights travelled to London in order to receive information of a recent nature relating to a variety of matters of concern to the Special Rapporteur. During the visit to London, the staff member met with a wide range of persons and received testimony, together with supplementary information in documentary, photographic and video form.

5. The second mission referred to above took place from 24 June to 2 July 1994 when two staff members from the Centre for Human Rights travelled to Kuwait in order to receive information concerning the fate of Kuwaitis and other persons who disappeared during Iraq's occupation of Kuwait. The fate of this particular group of persons forms part of the mandate of the Special Rapporteur as a result of paragraphs 4 of Commission resolutions 1992/71 and 1993/74 and paragraph 5 of Commission resolution 1994/74. This aspect of the mandate of the Special Rapporteur follows upon the work done by the Special Rapporteur on Iraqi-occupied Kuwait prior to the completion of that mandate. However, since the Special Rapporteur lacked, until the summer of 1994, sufficient resources to study the unique and specific matter of missing Kuwaitis, only very brief reporting has been offered by the Special Rapporteur in his previous two reports

to the Commission (see E/CN.4/1993/45, para. 49, and E/CN.4/1994/58, para. 32). Consequently, the present report contains, in section II, the results of the Special Rapporteur's investigations, considerations and conclusions based upon information received prior to and during the aforementioned mission to Kuwait by human rights monitors.

6. Faced with reports of a continuing flow of refugees, principally Marsh Arabs, arriving in the south-western part of the Islamic Republic of Iran from the southern marsh area of Iraq, the Special Rapporteur sent a third mission of two Centre for Human Rights staff members in August 1994. Serving in the capacity of human rights monitors pursuant to paragraph 11 of Commission resolution 1994/74, the staff members travelled to the Islamic Republic of Iran from 15 to 25 August 1994. Four days of the mission were spent in Khuzestan Province towards the marsh frontier with south-eastern Iraq, while the remainder of the visit was spent in Tehran. Both testimonial and documentary evidence (including photographs and video-recordings) were received. Section III of the present report contains the results of the Special Rapporteur's investigations, considerations and conclusions concerning the situation of the Marsh Arabs of Iraq based upon information received prior to and during the aforementioned mission to the Islamic Republic of Iran.

7. In June 1994, reports of extremely disturbing new decrees of the Revolution Command Council began reaching the Special Rapporteur which, by their mere existence, would constitute a legalization and institutionalization of cruel and unusual punishments and, by their implementation, would constitute, inter alia, forms of torture. Since these decrees also affect large parts of the population and are applicable throughout the jurisdiction of the Republic of Iraq, the Special Rapporteur has decided to address them in section IV of the present report.

8. Political killings attributed to agents of the Iraqi State have characterized the situation of human rights in Iraq for a very long time. Some recent cases are briefly described in section V of the present report before the Special Rapporteur offers his conclusions on the use of this technique of suppressing opposition groups, or mere oppositional sentiments, through terror.

9. Among the most visible and disturbing policies of the Government of Iraq, affecting virtually the entire population, are those which concern the rights to food and health. In section VI of the present report, the Special Rapporteur addresses the deteriorating situation regarding these most vital of economic rights and offers his conclusions as to the responsibilities of the Government of Iraq.

10. Aside from the matters addressed below, and especially keeping in mind the recent decrees addressed in section IV below, it is again to be observed that there are no signs of improvement in the general situation of human rights in Iraq. Indeed, it is the opinion of the Special Rapporteur that the situation of human rights in Iraq in all spheres, whether civil, cultural, economic, political or social, has deteriorated in the last year.

11. The present report reflects information at the disposal of the Special Rapporteur as of 23 October 1993.

II. THE SITUATION OF MISSING KUWAITIS

A. Introduction

12. In its resolution 46/135, adopted on 17 December 1991, the General Assembly addressed the problem of Kuwaiti and third-country nationals who had disappeared during the Iraqi occupation of Kuwait, and requested the Government of Iraq:

> "4. ... to provide information on all Kuwaiti persons and third-country nationals deported from Kuwait between 2 August 1990 and 26 February 1991 who may still be detained and ... to release these persons without delay;
>
> "5. ... to provide ... detailed information on persons arrested in Kuwait between 2 August 1990 and 26 February 1991 who may have died during or after that period while in detention, as well as on the site of their graves;
>
> "6. ... to search for the persons still missing and to cooperate with international humanitarian organizations, such as the International Committee of the Red Cross, in this regard;
>
> "7. ... to cooperate with and facilitate the work of international humanitarian organizations, notably the International Committee of the Red Cross, in their search for and eventual repatriation of Kuwaiti and third-country national detainees and missing persons".

13. At the previous session of the Commission on Human Rights, a specific investigation procedure had been established to examine the situation of human rights in Iraqi-occupied Kuwait, including the problem of disappearances. As noted in paragraph 5 above, two staff members from the Centre for Human Rights, acting as human rights monitors in the framework of Commission resolution 1994/74, undertook a visit to Kuwait from 24 June to 2 July 1994. During their stay in Kuwait, the monitors met with a wide variety of persons of special relevance to the continuing problem of Kuwaiti and third-country nationals who disappeared during or subsequent to their alleged arrest and detention by Iraqi forces occupying Kuwait between 2 August 1990 and 26 February 1991. Among those interviewed were representatives of the Kuwaiti National Committee for Missing and Prisoners-of-War Affairs and the Kuwaiti Association for the Defence of Victims of War. In total, the monitors interviewed more than 100 victims, witnesses and family members of the missing Kuwaitis, including persons who had remained in Kuwait during the occupation.

14. With respect to the basis of concern over persons who have disappeared, it is to be noted that an original list of persons who were missing after the withdrawal of the Iraqi occupying forces was established in March 1991. It contained more than 11,700 names (see E/CN.4/1992/26, para. 148). Following large-scale repatriations of prisoners-of-war (POWs) and civilian internees in late March and early April 1991 and the spontaneous reunion of families who had been separated during the time of the occupation, the number of missing persons decreased considerably. Further clarification of numerous other cases occurred

through the subsequent months so that the remaining number of missing Kuwaitis has fallen substantially.

15. In response to an inquiry by the Special Rapporteur, the Government of Kuwait submitted on 30 November 1993 a list of 625 individual files (concerning 609 missing persons, 16 of whom have known pseudonyms and, hence, 2 files) that had been compiled by the Kuwaiti Government's National Committee on the basis of specific guidelines of the International Committee of the Red Cross (ICRC) and with help from the Kuwaiti Association for the Defence of Victims of War. The files were compiled taking into consideration three different sorts of evidence: (a) accounts from family members, of whom several claim to have witnessed the arrest of their relatives; (b) testimonies of former detainees (including foreigners) who claim to have seen some of those who have disappeared inside prisons or detention centres; and (c) Iraqi documents relating to those missing, which were said to have been found after the withdrawal of the Iraqi forces.

16. The cases on the list of missing Kuwaitis concern persons from various social strata and of different ages; only a few are non-Kuwaitis. Among those listed are also persons of special status, such as the case of a Baathist and former Member of the Kuwaiti Parliament, Mr. Al-Sanea and his family. The Special Rapporteur has received information from several reliable sources that, in addition to Kuwaitis and other third-country nationals, a large number of "bidun" (stateless persons of long residence in Kuwait) are also reported to have disappeared during the Iraqi occupation of Kuwait. Taking into consideration these additional cases, it would seem clear that the total number of persons who apparently disappeared under Iraqi occupation remains much higher than 609.

17. During their mission to Kuwait, the monitors met several persons who knew of missing persons in their extended families or among their friends and neighbours. Thorough interviews were conducted with some of the relatives of the 609 missing persons. The majority of the cases checked are well-documented with testimonies of people who claim to have witnessed the arrest of the missing person and others who claim to have seen the missing person in detention either in Kuwait or in Iraq. A total number of 36 cases of persons who disappeared during the Iraqi occupation in Kuwait was formally checked during the mission. This number includes both men and women. The total also includes missing persons of different ages, from youths to a number of elderly persons. Although the great majority of files in the possession of the Special Rapporteur regarding missing persons concern Kuwaiti nationals, families of foreigners living in Kuwait and "bidun" who are also reported to have disappeared were also interviewed.

B. Substantive aspects

18. According to the testimonies received, procedures used by Iraqi authorities to arrest Kuwaiti citizens varied and arrests took place in all kinds of locations. While each case has unique elements, most cases involved one of the following: assaults on private homes; arrests by Iraqi patrols of Saudi-Kuwaiti border crossings; and arrests at Iraqi check-points inside occupied Kuwait.

19. Assaults on private homes usually took place with Iraqi soldiers (who were often recognized as Republican Guards) first surrounding the house. Members of either the Iraqi Military Intelligence or the Security Services would then carry out the arrest during a search of the house. Beatings during arrest were said to be commonplace. Generally, these raids were said to have been based on precise information with the Iraqi forces frequently reported to be looking for specific persons. Several of the persons arrested were known to belong to opposition groups. Some of them were released later, others escaped during the March 1991 uprisings in southern Iraq and others remain missing today.

20. In connection with the assaults on private homes, according to the information received, the houses were often guarded after the initial arrests and persons trying to enter the houses would then also be captured. In one case, several persons were known to be apprehended as a result of a trap in which a detainee was forced (reportedly under threat of execution) to telephone friends and invite them to the house concerned where they were subsequently arrested. Some of these persons remain missing.

21. With respect to arrests by Iraqi patrols of Saudi-Kuwaiti border crossings, many families were outside or quickly fled Kuwait when the invasion took place on 2 August 1990. As most of the border was then closed, except that with Iraq, people fleeing the occupation were forced to leave Kuwait illegally through the desert. However, once the Iraqi forces had been deployed along the Kuwaiti border, persons wishing to return to Kuwait are believed to have been arrested while crossing the Saudi-Kuwaiti frontier, and the fate of some is still unknown. Despite the fact that these cases are less well documented than others because there are no witnesses to their arrest, testimonies have been received from former POWs stating that they subsequently saw the victims inside prisons or detention centres in Iraq.

22. Regarding arrests at Iraqi check-points inside occupied Kuwait, Iraqi authorities deployed check-points on the main streets of Kuwait to prevent freedom of movement and to control real or potential resistance. Several persons were arrested during searches at these check-points, and some of them have since disappeared.

23. Many people, among whom were both Kuwaitis and non-Kuwaitis, were taken prisoner during the fighting that accompanied the invasion and its immediate aftermath. Those imprisoned included members of the armed forces as well as people working in the Kuwaiti administration. Military and administrative personnel captured during this early period were taken to Iraq and some of them were released after the liberation of Kuwait when ICRC visited detention centres in Iraq.

24. A second broad group of persons was arrested as the occupation continued. Some of this second group were members of military and police forces while others were civilians (e.g. students and public administrators), including foreigners allegedly involved in opposition activities.

25. A third group is said to have been arrested at the very end of the occupation. Most of these persons were reportedly Kuwaitis arrested from public places; however, none of the documented cases relate to this period. In the

majority of cases studied by the Special Rapporteur, the persons concerned were reportedly arrested between August and October 1990.

26. As for the alleged reasons for the arrests, it appears that in most cases the persons said to have been arrested were suspected of some form of opposition against the Iraqi occupation. Resistance to the Iraqi occupation was very largely interpreted by Iraqi forces without any distinction as to whether it was passive or active, violent or non-violent opposition. The following reasons for these arrests were reported: (a) possessing arms or ammunition; (b) forging driving licences, car registration books, ID cards; (c) publishing and distributing resistance newsletters or spraying anti-Iraqi graffiti on walls. In some cases, people were apparently arrested for belonging to humanitarian groups and solidarity associations. People distributing food and basic needs to citizens and doctors who treated resistance members were also said to be arrested. As mentioned above, another group was allegedly arrested while crossing the Saudi-Kuwaiti border, perhaps on charges of illegal exit or entry. Among the documented cases, there were only a few where there was no alleged reason for the arrest.

27. Information on the treatment of persons arrested comes from testimonies of former detainees who were released as a consequence of the March 1991 uprising in southern Iraq that followed the Iraqi withdrawal from Kuwait. Jails were attacked by Iraqi rebels (e.g. in Basrah) who opened the doors and liberated the opponents of the Iraqi Government. Others were released after the intervention of ICRC which, following the war, was allowed to visit some prisons, register POWs and civilian internees in Iraq and arrange for their repatriation.

28. The treatment of persons arrested and detained by the Iraqi authorities appears to have varied widely. In most cases, detained persons were first interrogated at temporary centres of detention usually located very near to the place of the arrest, such as police stations (e.g. Sabah Al-Salem, Jahra, Farwaniya, Salmiya, Firdous), school buildings, private houses (e.g. the well-known Beit Al-Bahr) and administrative buildings. Many of the detainees were later transferred to other centres of detention for further interrogations and longer detention. In some cases, soldiers were said to have been separated from the civilians. Interrogations are said to have focused on the activities either of the arrested persons or of their friends and relatives: detainees were instructed to collaborate with the Iraqi occupying forces and to provide information. Interrogations were almost always said to have been accompanied by beatings. Some detainees were then released, some reportedly because they paid large bribes. Those who were not released were normally taken to Iraq (especially just before the allied bombardment) where they were transferred to large prisons or camps in Basrah, Nasiriyah and Baghdad.

29. Interviewed persons consistently reported that those arrested did not have access to lawyers and were not allowed to contact their families. Families looking for arrested relatives were normally not informed about their whereabouts, except for a very few cases.

30. It appears that detainees in these centres were subject to ill-treatment and torture, including beatings and electrocutions. Living conditions in most of the Iraqi detention centres in Kuwait were very poor. There was very little

water available and food was insufficient. Most detainees were arrested in the summertime and were still in the same clothing when winter arrived; blankets were not supplied. In Iraq, especially Basrah prison, witnesses testified that life was especially difficult: each day, several prisoners were taken for questioning and allegedly tortured (beatings and electrocutions); the sounds of beatings and torture filtered through to the remaining occupants of the large (16 square metres), but crowded (40 persons), cells. Prisoners were said to have been allowed to visit the toilets only once a day, usually in the morning in groups of five with their hands tied, on their way to the toilets, they were very often beaten and subjected to humiliation. There was said to have been no ventilation and very little light, except from small windows, and bad food was distributed in small quantities; inmates had to sleep on the cold cement floor and only small blankets were supplied.

C. Conclusion

31. In the opinion of the Special Rapporteur, there can be no doubt that many persons disappeared during or subsequent to the Iraqi occupation of Kuwait. In so far as the disappearances occurred during the Iraqi occupation of Kuwait, there can also be no doubt of the general responsibility of Iraq for the fate of these persons and the effects on their families. Detailed testimonies and other corroborative evidence further establishes the specific responsibility of Iraqi forces and authorities in relation to many individual cases. From the point of view of the missing and their relatives, however, the question arises whether all these persons are still, as has been claimed, detained in Iraq.

32. In accordance with the applicable rules of international law, Iraq must account for those who were actually arrested by its forces. If Iraq is still holding POWs and civilian internees, a premise the Iraqi authorities deny, several basic human rights embodied in the International Covenant on Civil and Political Rights would be violated. In any case, Iraq has failed:

(a) To inform families about the whereabouts of persons arrested in Kuwait or to give arrested persons the right to contact their families;

(b) To provide information about death sentences imposed on POWs and civilian detainees, as required by articles 101 and 107 of the Third Geneva Convention, of 12 August 1949, and articles 74 and 75 of the Fourth Geneva Convention, of 12 August 1949;

(c) To issue death certificates for deceased POWs and civilian internees and to provide information about graves in accordance with articles 120 and 121 of the Third Geneva Convention and articles 129 to 131 of the Fourth Geneva Convention.

33. In addition to the violations of international humanitarian law referred to above, the Government of Iraq has, to the knowledge of the Special Rapporteur, failed to demonstrate genuine concern for those who remain missing in so far as it has yet to participate fully and in a cooperative spirit with both Governments and international humanitarian organizations that are seeking to resolve the cases on behalf of the next of kin. In particular, the Government

of Iraq failed even to attend (through a period of two years) the meetings of the trilateral commission established pursuant to the cease-fire that ended the armed conflict following the liberation of Kuwait. However, the Government of Iraq has attended the last two meetings of this commission and is endeavouring to resolve some of the cases, a development that the Special Rapporteur hopes will continue.

III. THE SITUATION OF THE MARSH ARABS

A. Introduction

34. The Special Rapporteur addressed the situation of the Marsh Arab people in several of his previous reports (A/47/367, paras. 7-16 and 28; A/47/367/Add.1, paras. 15-23, 34-35, 45, 53 (e) and 56; E/CN.4/1993/45, paras. 114-130; A/48/600, paras. 10-61; A/48/600/Add.1; and E/CN.4/1994/58, paras. 126-129 and 157). As in the past, the Special Rapporteur has again benefited from a variety of reports providing detailed information often supported by documentary evidence in the form of photographs, video-recordings and satellite imageries. As noted in paragraph 6 above, compelling testimonial evidence was also received from Marsh Arab refugees who arrived in the south-western part of the Islamic Republic of Iran in the summer of 1994.

35. During the above-mentioned mission to the Islamic Republic of Iran, the 2 human rights monitors met with a total of 40 newly arrived refugees from the Iraqi marsh area. All interviewees were able to provide recent information on the situation in the marshes. Most interviewees were also in very poor physical and psychological condition.

36. In addition, the people who fled from the southern cities also described the situation there. Army deserters, those involved in the opposition, as well as "tribal chiefs" often had a story of personal persecution in the past.

B. Substantive aspects

37. All refugees interviewed reported the dramatic decline of water in the southern marshes, especially in the summer of 1994, and emphasized that the main reason for their flight had been the drying of the marshes; the sinking water-level makes survival in the marshes more and more difficult, almost impossible. Because of the loss of water, the Marsh Arabs can basically no longer use their traditional boats. As the soils have dried out, the reed beds have died, thus depriving the tribespeople of their main material for building shelters and feeding their buffalo and cattle. The formerly self-sufficient agrarian and fishing traditions of the Marsh Arabs are now in extreme danger as fish stocks have been depleted and the necessary habitat has disappeared. In addition to being deprived of food, construction materials and means of transportation, there is almost no drinkable water left in any part of the marshes; in areas where there was still some water left, it had become salty or toxic owing to the fact that it had become stagnant.

38. Refugees and other sources report that many people in the marshes have no access to the monthly government food ration cards that are normally available to every Iraqi citizen. Several reasons were cited for this: (a) most of the residents of the marshes used to live on the margins of the system and are not officially registered and, therefore, do not have identification cards; (b) if, among a family or a tribe, a person had evaded service in the Iraqi Army or had deserted, the Iraqi Government would apply a collective punishment preventing the other members of the family from having food-ration cards; and (c) any citizen suspected of having taken part in the March 1991 uprisings and, more generally, those who are not aligned with the Iraqi Government are also deprived of ration cards. Since the marsh inhabitants have no direct access to food (because of the combined effects of the drying of the marshes, the international sanctions and government policies effectively depriving them of access), they had become dependent on intermediaries and smugglers who sold them flour, sugar and oil at black-market prices. In some areas of the marshes, women would sometimes go to nearby markets to buy food and basic goods, but on their way back they could be subject to many controls by Iraqi forces who would confiscate their merchandise. As the drying of the marshes continued and the Iraqi forces increased their control of the area, access to the zone became severely restricted and the inhabitants of the marshes became more and more isolated and dependent on the natural resources of the area they lived in. Since these natural resources have by now almost been completely destroyed, and since the inhabitants fear the government authorities, the refugees asserted that they have little other choice but to flee their natural territory.

39. Since the establishment of the "no-fly zone" in southern Iraq in August 1992, it is clear that artillery bombardments and mortar attacks on villages and towns in the vicinity of al-Amara, al-Nasiriyah and Basrah were stepped up. According to several eye-witness reports, government forces used long-range heavy artillery shelling against civilian settlements at night or during lunch and dinner time when families are typically gathered together; many refugees testified that they had lost family members in the indiscriminate bombardments, and some witnesses had themselves been injured and bore physical wounds from the shelling. Following bombardments, forces composed of regular army, Republican Guard and Special Forces would advance with their armoured vehicles, including tanks and heavy artillery and surround the villages of the area. After the capture of the region, the troops would enter the villages, carry out indiscriminate arrests and conduct house-to-house searches before burning the reeds and destroying the houses. Witnesses said that those who were arrested were taken away blindfolded, were frequently transferred to a detention centre and were never heard from or of again. Following the bombardments, it would take three days to one week for the inhabitants to rebuild their mostly reed houses, during which time they would have to sleep outside deprived of everything. Sometimes, after having finished rebuilding their houses, Iraqi forces would come and burn the houses again.

40. Access to health care is extremely rare for the inhabitants of the marshes. There are no clinics inside the marsh area and people are completely dependent on volunteers who are very few (e.g. one or two for a large area) who secretly provide some basic medical care. Those who can move to the cities can very often not afford the considerable fees for a medical consultation nor afford to buy medications. Access to government medical services is not available or

problematic because the Marsh Arabs are generally not registered and fear becoming so for the reasons given above.

41. There is no doubt that the violations referred to above have not come to an end. Military attacks on civilian settlements have continued to be reported through to the submission of the present report. The Special Rapporteur notes that the flow of Marsh Arab refugees into the south-western part of the Islamic Republic of Iran also continues, despite the fact that the physical obstacles to flight have increased as the marshes have been drained and embankments (patrolled by armed forces) have been constructed by the Government of Iraq.

42. All the refugees interviewed in the Islamic Republic of Iran stated that they had to pass through both dried and still wet marshes to get into the Islamic Republic of Iran. Most of them were in very poor physical and psychological condition. They usually travelled a part of the journey by boat, part by car, and the remainder by foot over dried marshland. The route was said to be very dangerous and most of the refugees needed a guide to escape from the many check-points established in the area. The cost of the guides was often very high and most refugees reported that they had sold everything they had in order to pay the guides.

C. Conclusions

43. In his last report to the Commission on Human Rights, the Special Rapporteur expressed his concern over the survival of the Marsh Arab people as a community, should no steps be taken to cease the repressive campaign against them (see E/CN.4/1994/58, para. 157). Specifically, the Special Rapporteur emphasized the need to reverse the draining of the marshes and end the indiscriminate military campaign against the population. Unfortunately, the Special Rapporteur can only conclude that the situation has deteriorated further with very large parts of the former marshes having dried out and, therefore, the environment so necessary to the Marsh Arab culture having been destroyed. The evidently determined policy of the Government of Iraq in this regard constitutes a gross violation of human rights.

IV. LEGAL APPLICATIONS OF CRUEL AND UNUSUAL PUNISHMENTS

A. The recent decrees

44. On 5 June 1994, the official Iraqi newspaper Al-Jumhuriya published the text of Revolution Command Council Decree No. 59 dated 4 June 1994 (see annex, document No. 1). Decree No. 59, signed by Saddam Hussein as Chairman of the Revolution Command Council, stipulates that anyone who commits certain specified property crimes, i.e. theft (including the stealing of a vehicle), shall have the right hand amputated at the wrist. In the event of a repeated offence, the decree stipulates that the person shall have the left foot amputated at the ankle. These punishments are to apply even in the absence of a simultaneous assault. The decree also stipulates that the death penalty is to be imposed if the theft is committed while armed or if it results in the death of a person. In a seemingly contradictory attempt to afford humanitarian exceptions, the

third paragraph of decree No. 59 excepts juveniles, spouses or relatives to the second degree from application of the decree's provisions, and it requires the value of stolen articles to exceed 5,000 dinars.

45. The punishments stipulated in Revolution Command Council Decree No. 59 are cruel and unusual and are in clear violation of Iraq's obligations under article 7 of the International Covenant on Civil and Political Rights. Moreover, both the letter and spirit of Decree No. 59 violate the object and purpose of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. While articles 3 and 4 of the aforementioned Declaration respectively oblige Iraq not to permit and, in fact, to prevent such punishments from being practised within its jurisdiction, the legalization of amputations for property crimes pursuant to Decree No. 59 constitutes torture in the form of "an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment" as defined by article 1 (2) of the Declaration. Further, and without implying that such punishments would in any case be compatible with Iraq's obligations under international human rights law, the Decree is applicable to simple thefts of property valued at as little as 10 United States dollars, according to information received by the Special Rapporteur regarding the current real exchange rate (between 500 and 600 Iraqi dinars to one United States dollar) in southern Iraq. Consequently, stipulation of the death penalty for such an offence where it may be aggravated by the carrying of a weapon is clearly disproportionate to the crime and, therefore, constitutes a violation of article 6 (2) of the International Covenant on Civil and Political Rights, which requires that the death penalty "may be imposed only for the most serious crimes".

46. On 24 July 1994, the official Iraqi newspaper Al-Thawra published the text of Revolution Command Council Decree No. 92 dated 21 July 1994 (see annex, document No. 2). Decree No. 92, signed by Saddam Hussein as Chairman of the Revolution Command Council, stipulates that anyone who falsifies an official document, for his or her own benefit or to the detriment of another person's rights, is subject to life imprisonment or amputation of the right hand at the wrist.

47. The punishments stipulated in Decree No. 92 are cruel and unusual and are in clear violation of Iraq's obligations under article 7 of the International Covenant on Civil and Political Rights. Like Decree No. 59 (see above), both the letter and spirit of Decree No. 92 violate the object and purpose of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Further, and without implying that such punishments would in any case be compatible with Iraq's obligations under international human rights law, Decree No. 92 is applicable to any official document (including, presumably, a library card), such that the punishment of life imprisonment may very frequently be extremely disproportionate to the offence committed.

48. On 1 August 1994, the text of Revolution Command Council Decree No. 93, dated 23 July 1994, was published in the Arabic version of the Official Gazette of Iraq (see annex, document No. 3): Decree No. 93, signed by Saddam Hussein as Chairman of the Revolution Command Council, prohibits deserters from, and

evaders of, military service from concluding or maintaining contracts for the use of agricultural or industrial properties; purchasing, leasing or in any sense using State-owned property; engaging in commerce; and making use of land or new housing owned by the State or the Socialist sector. By subsequent Revolution Command Council Decree No. 116 of 25 August 1994, published in the Arabic version of the Official Gazette of Iraq on 12 September 1994 (see annex, document No. 4), Decree No. 93 was extended to prohibit deserters and evaders from acquiring ownership of real estate in any way.

49. The punishments prescribed by Decree No. 93 are additional to previously prescribed punishments of imprisonment or death for desertion or evasion of military service. Consequently, Decree No. 93 augments the severity of punishment for desertion and evasion, and, in so far as the decree simply states that it will enter into force upon its publication in the Official Gazette (without specifying that it will apply to offences committed only thereafter), it appears that Decree No. 93 would also apply to all persons holding the status of "deserter" or "evader", i.e. those currently serving sentences and, possibly, even those having served sentences. Such retroactive effect would constitute a violation of article 15 (1) of the International Covenant on Civil and Political Rights, which proscribes the imposition of a heavier penalty than was applicable at the time when a criminal offence was committed.

50. Irrespective of whether or not Decree No. 93 has any retroactive effect, the articulated provisions of the decree evidently aim to impoverish deserters and evaders of military service, and perhaps their dependant families. By limiting so broadly the possibilities for such persons to obtain gainful employment or to earn their own living as a result of certain agricultural, industrial or commercial endeavours, Decree No. 93 offers potential deserters or evaders virtually no choice but to succumb to military conscription orders. This is especially so because of the extremely pervasive nature of the Iraqi State in its ownership of property and enterprises in the country, and its considerable regulation of the economy in general. It must also be recalled that the effect of Decree No. 93 is very wide because of the very large size of the armed forces in Iraq, which depend upon conscription. However, notwithstanding the evident aim of Decree No. 93 or its very wide application, its provisions constitute a violation of article 6, taken in conjunction with article 2, of the International Covenant on Economic, Social and Cultural Rights ensuring the right to work without discrimination of any kind, including social status. Decree No. 93, as supplemented by the provision of Decree No. 116, also constitutes a violation of article 17, both alone and in conjunction with article 2, of the Universal Declaration of Human Rights regarding the right to property and freedom from discrimination on the basis of social status.

51. On 26 August 1994, the official Iraqi newspaper Al-Thawra published the text of Revolution Command Council Decree No. 109 dated 18 August 1994 (see annex, document No. 5) which was published in the Arabic version of the Official Gazette of Iraq on 29 August 1994, thus bringing the Decree into effect according to its fourth paragraph. Decree No. 109, signed by Saddam Hussein as Chairman of the Revolution Command Council, stipulates that an "x" symbol of specified dimensions shall be tattooed between the eyebrows of every person who has been legally punished by amputation. The Decree specifies that such tattooing shall be conducted according to medical requirements in the relevant

hospital. The Decree also explicitly provides in paragraph 4 that the punishment of tattooing shall have retroactive effect.

52. The punishment stipulated in Revolution Command Council Decree No. 109 is cruel and unusual and is in clear violation of Iraq's obligations under article 7 of the International Covenant on Civil and Political Rights. Its retroactive effect constitutes a violation of article 15 (1) of the International Covenant on Civil and Political Rights (see para. 49 above). Moreover, both the letter and spirit of Decree No. 109 violate the object and purpose of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The evident aim of the decree is not only to disable the victim as a form of punishment, but also to brand the person so that he or she may be readily identifiable and, thus, subject to public scorn, ridicule and humiliation. Such a punishment strikes at the core of human dignity and is offensive to the very concepts underlying human rights.

53. On 7 September 1994, the official Iraqi newspaper Al-Iraq published a summary of the provisions of Revolution Command Council Decree No. 115 dated 25 August 1994; the full text of the decree was published in the 12 September 1994 issue of the Arabic version of the Official Gazette of Iraq (see annex, document No. 6). Decree No. 115, signed by Saddam Hussein as Chairman of the Revolution Command Council, stipulates that deserters from, or evaders of, military service, or anyone who shelters them, shall have the external part of an ear cut off and an "x" symbol of specified dimensions tattooed between the eyebrows; in the case of a second offence, the other ear is to be cut off, while a third offence is to be punished by death by firing squad. Decree No. 115 has explicit retroactive effect, but is to be suspended should deserters or evaders who are at large surrender within a limited period of time.

54. The punishment stipulated in Revolution Command Council Decree No. 115 is cruel and unusual and is in clear violation of Iraq's obligations under article 7 of the International Covenant on Civil and Political Rights. Its retroactive effect constitutes a violation of article 15 (1) of the International Covenant on Civil and Political Rights (see para. 49 above). Moreover, both the letter and spirit of Decree No. 115 violate the object and purpose of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The evident aim of the Decree is to brand the person so that he or she may be readily identifiable and, thus, subject to public scorn, ridicule and humiliation. Such a punishment is odious to the very concepts underlying human rights.

55. On 12 September 1994, the text of Revolution Command Council Decree No. 117, dated 25 August 1994, was published in the Arabic version of the Official Gazette of Iraq (see annex, document No. 7). Decree No. 117, signed by Saddam Hussein as Chairman of the Revolution Command Council, prohibits anyone from removing the "x" symbol tattooed as a result of the commission of a crime punishable by amputation. The Decree also stipulates that anyone assisting with removal of the tattoo or who carries out cosmetic surgery on an amputated hand or ear shall be subject to the same punishments. Moreover, Decree No. 117 stipulates that the noted punishments to which persons have been subjected shall

be recorded in various public records and identity documents. In a seemingly odd third paragraph, Decree No. 117 provides that "the civil and penal consequences of the penalty of amputation of the hand or the ear and the tattoo shall be annulled" if the person "performs a patriotic or heroic act".

56. The prohibition of assistance to persons who have been legally maimed by the prescribed tattoo or who suffer malformations as a result of the prescribed amputations renders the victims even more helpless and subjects them to even more severe punishment. Extending these horrendous punishments "as appropriate" to persons who attempt to offer subsequent assistance out of humanitarian concern, including medical practitioners who may be obliged by professional oaths to offer assistance, subjects innocent persons who have committed no criminal offence to extreme punishments and constitutes a yet more serious aggravation of the already gross violations referred to above; the Special Rapporteur fails to see how any of these provisions could ever be "appropriate". Moreover, by stipulating that public records and identity documents shall specify the punishments suffered, the victims will be subjected to further humiliation and probable discrimination. To imply that the "civil and penal consequences" of the penalties of amputation could ever be "annulled" is to dismiss the real and enduring consequences of the punishments and to ascribe to a mere decree physical powers which in nature are well beyond it.

57. On 12 September 1994, the text of Revolution Command Council Decree No. 145, dated 5 September 1994, was published in the Arabic version of the Official Gazette of Iraq (see annex, document No. 8). The decree, signed by Saddam Hussein as Chairman of the Revolution Command Council, stipulates that anyone liable to compulsory military service shall be released from service following completion of the 90-day basic training and payment of "an exemption tax of 1 million dinars in cash".

58. Decree No. 145 is a blatant sale of privilege to the very few who can afford the exorbitant tax. A typical government salary is about 2,000 dinars per month, i.e. 1/500th of the exemption tax. According to the official exchange rate, the exemption tax exceeds US$ 3 million. As a result, Decree No. 145 enables only a tiny fraction of the population, i.e. the very richest, legally to avoid compulsory military service and, thus, the potential effects of the amputation and tattooing decrees referred to above. By contrast, the effect of Decree No. 145 is to render the rest of the population subject to the aforementioned decrees since there are virtually no other ways for able-bodied persons legally to avoid compulsory military service. As such, Decree No. 145 constitutes discrimination on the basis of property.

59. With respect to all of the decrees referred to above, the Special Rapporteur observes that the legal basis on which they are decreed and promulgated derives from the provisions of article 42, paragraph 1, of the Provisional Constitution of the Republic of Iraq. While the decrees appear, therefore, compatible with Iraq's "revolutionary" constitutional order, the Special Rapporteur refers to his previous comments about the abuse of power the order engenders, and its compatibility with the standards of international human rights law which the State of Iraq is obliged to respect (see E/CN.4/1994/58, paras. 159-184, and especially para. 164).

B. Implementation of the decrees

60. As detailed above, the mere existence of the various decrees constitutes violations of Iraq's international obligations in so far as they legalize, authorize and promote the application of cruel and unusual punishments. Implementation of the said decrees involves other violations. The scope and breadth of implementation is also of interest to the Special Rapporteur in assessing the extent of the violation; in so far as they proceed from generally applicable laws, the whole population may be said to be affected to a degree, but implementation would affect certain persons more specifically and, obviously, more severely.

61. The Special Rapporteur has received reports alleging widespread implementation of the decrees. These reports are supported by detailed testimonies and documentary evidence in the form of newspaper articles from the official Iraqi press and even a video-recording of an Iraqi television news broadcast showing a victim of implementation of Decree No. 59. Reports have been received from all regions of the country, indicating also that implementation is taking place on a wide scale. In an article published in the official Iraqi newspaper Al-Jumhuriya on 6 July 1994, it was reported that the Minister of Trade, Muhammad Mahdi Salih, emphasized the applicability of Decree No. 59 "providing for amputation of the hand of anyone who contravenes the stipulations contained in Ministry of Trade Declaration No. 1 of 1994 concerning the obligation of owners of bakeries and baking ovens to abide by the instructions concerning the production of flat bread and loaves". In such circumstances, the Special Rapporteur fears that much of the population of Iraq may be, or become, subject to Decree No. 59 prescribing amputations.

62. According to a report dated 24 June 1994 received from Amnesty International, two men were sentenced by the Criminal Court of Diyala to amputation of the hand for stealing carpets; the sentences were reportedly carried out in July. Amnesty International reported on 1 September 1994 the sentencing of two more men to amputation of the hand, and tattooing of the forehead, upon conviction of charges of theft of a car and factory goods, respectively. On 6 October 1994, Amnesty International reported the amputation of the hand and the branding of the forehead of one Ali Ubaid Abed Ali for having stolen a television and 250 Iraqi dinars (equivalent to about 50 United States cents at the present real rate of exchange). The latter was shown from a hospital, in an apparent state of shock, on the Iraqi television news broadcast on the evening of 9 September 1994; his forehead appeared to have been branded with a large "x" between the eyebrows, the stump of his right arm was bandaged and, in a gruesome display, the severed hand was shown laying on a blue sheet. The Special Rapporteur is in possession of a video-tape copy of the aforementioned broadcast.

63. From the south of Iraq, the Special Rapporteur has received reports that several deserters from, and evaders of, military service have had their ears cut off, frequently in appalling conditions and often without the benefit of anaesthetic. One report alleges that two citizens, Hassan Ali Kadhim and Khaz'al Abid Mansour, both of the city of Nasiriyah, died after 10 days of head and chest inflammation that followed the amputation of their ears; the operations were said to have been carried out in the military hospital in

Nasiriyah sometime in September. Another report alleges that approximately 150 deserters had their ears cut off in Saddam Military Hospital in the city of Amara at the end of August; the names of some victims were provided to the Special Rapporteur. Hundreds of men were also said to have been rounded up in Basrah Governorate during the week of 5 September 1994 and taken to Al-Jumhuriya and Saddam Hospitals in Baghdad in order to undergo amputation.

64. From the northern part of Iraq that remains under Government control, the Special Rapporteur has received reports also indicating widespread implementation of Decree No. 115. Reports from the city of Mosul allege that hundreds of young deserters and evaders of service have been brought to hospitals for the surgical procedures during the last several weeks. Reports further indicate that one man died of haemorrhaging following an operation, while other victims committed suicide.

65. One particularly telling testimony received by the Special Rapporteur comes from a military physician who fled Government-controlled Iraq not long after the implementation of Decree No. 115. According to the witness, doctors are expected to carry out the operations; and in response to those who were refusing, the Revolution Command Council proclaimed Decree No. 117 in order to force doctors to do so. Military doctors are under the additional pressure of military orders to perform the operations; in addition to the punishments prescribed by Decree No. 117, disobedience is punishable by imprisonment and possible execution. Since the witness considered the new decrees to be instructions to mutilate and, as such, to be contrary to his professional ethics, he fled and, consequently, he is now a deserter. Prior to fleeing, however, he claims to have witnessed many such operations. He explained that, in so far as the decrees are retroactive, there are several hundred deserters and evaders already under detention on whom the operations are being carried out. The witness testified that victims would be brought in groups from their dirty and overcrowded detention cells. They would arrive blindfolded and with their hands tied behind their backs. They would usually be given only a local anaesthetic. Since the decrees lack sufficient precision for surgical purposes, they are said to be implemented in various ways, with some doctors endeavouring to minimize the mutilations. However, the conditions are also said to be poor and the risks of infection high; doctors are prohibited from providing follow-up care, especially cosmetic surgery. The witness testified that there is considerable arbitrariness in the selection of the victims; there is no judicial procedure and bribing is said to be common, such that the poor are especially affected. Some victims were said to have died because of infections, while some others were said to have committed suicide. The doctor further testified that the numbers of operations were so many as to require civilian doctors to be brought to prisons to perform the operations rather than have large numbers of persons brought to hospitals.

66. With respect to the specific punishment of tattooing, subsequent reports have indicated that the punishment is rather one of branding with a hot iron. These reports are supported by the above-mentioned Iraqi news broadcast, which clearly showed the victim's forehead bearing a large and uneven "x" between his eyebrows; the mark very much lacked the prescribed precision of a "tattoo" and bore more similarity with the inexact scar of hot iron branding. The absence of

specific surgical instructions accompanying the decrees certainly gives rise to some difficult, if not bizarre, issues concerning implementation.

67. Reports and testimonies indicate that the decrees appear to be having their apparently intended effects. Prior to the decrees, many people had evidently been avoiding military service. Owing to the severe economic conditions within the country, remuneration for military service apparently does not adequately cover the living costs of many families. Similarly, thefts had increased considerably owing to the same severe economic conditions. The systematic maiming of deserters, evaders and thieves has reportedly instilled sufficient fear into the population so as to invoke better compliance with conscription orders. But thousands of potential victims are reportedly hiding from arrest and imposition of the punishments. The specific effects on the crime rate are unknown.

C. Conclusions

68. The Special Rapporteur concludes that the decrees addressed above constitute flagrant and determined violations of Iraq's international human rights obligations in so far as they prescribe cruel and unusual punishments and in so far as implementation of the decrees compounds these violations by involving torture. There is no doubt about the existence of the decrees, nor of their implementation; the Government of Iraq publicly declares and advertises these facts. There is no doubt either, therefore, about the responsibility of the State of Iraq for the existence and implementation of these decrees, which are not only incompatible with Iraq's obligations to respect fundamental human rights, but which constitute an affront to the humanitarian values of the international community.

69. The cumulative effect of the promulgation and implementation of the decrees is a calculated attack on the dignity of the Iraqi population inasmuch as the barbaric punishments instil specific fears and general terror among the population through the horror naturally created by the prospect of the implementation of the decrees. In so doing, it appears clear that the Government of Iraq ruthlessly aims to obtain uniform compliance by the population with duties that may run counter to one's individual conscience.

70. One particularly sad aspect of the effects of the decrees is the prescribed diversion of medical services, including personnel and material resources such as drugs and surgical instruments, away from health-related activities and for the purposes of legalized mutilations (see, in particular, annex, document No. 5, Decree No. 109, paras. 2 and 3. At a time when the people of Iraq are suffering severe shortages of medications owing to the Government's refusal to cooperate fully with international humanitarian organizations in terms of Security Council resolution 688 (1991) or to accept the material benefits that would flow from the so-called "food for oil" proposal contained in Security Council resolutions 706 (1991) and 712 (1991), it seems intolerable that the Government of Iraq would purposefully divert limited health resources to such ends.

71. As described by the Special Rapporteur in his last report to the Commission on Human Rights and as noted above, the legalization of such cruel and unusual punishments are due to the structure of power in Iraq, which permits extreme, yet routine, abuses by a small number of persons who are not only "above the law" but who, according to the prevailing legal order, are virtually synonymous with the law. The decrees (and their effects) addressed above constitute simply one aspect of the present order in Iraq. Such decrees, and such an order, can in no way be said to be compatible with respect for human rights.

V. POLITICAL KILLINGS

A. Introduction

72. Since taking up his mandate in the summer of 1991, the Special Rapporteur has received detailed information concerning what he has called "political killings". In previous reports, this phrase has been used to describe pre-planned killings of individuals, carried out by government agents upon orders, from "the murder of village mayors to Ministers of State and from high-street assassinations to elaborate extraterritorial thallium poisonings" and including three separate and largely unexplained helicopter accidents that took the lives of two Generals in 1988 and the Minister for Defence in 1989 (see A/46/647, para. 19).

73. The Special Rapporteur has continued to receive and investigate allegations of political killings. In his second report to the Commission on Human Rights, the Special Rapporteur reported on two incidents of alleged political killings: (a) the March 1992 attempted assassination of persons by thallium poisoning; and (b) the successful assassination by gun-fire of Mr. Moayyad Hassan Al-Janabi in Amman on 7 December 1992 (see E/CN.4/1993/45, paras. 37-39). The Special Rapporteur also reported on political killings in his third report to the Commission (see E/CN.4/1994/58, para. 23).

74. Unfortunately, the Special Rapporteur has continued to receive reports of political killings, including notable cases that occurred in the last six months.

B. Some recent cases

1. The case of Sheikh al-Tamimi

75. On 12 April 1994, the Iraqi citizen Sheikh Talib Al-Suheil Al-Tamimi was killed in Beirut allegedly by two members of the Iraqi Embassy in Lebanon. The 70-year-old Sheikh Talib Al-Suheil Al-Tamimi, who had been living in Jordan for more than 20 years, was a leader of the Beni Tamim tribe of central Iraq and was a member of the Executive Committee of the Free Iraqi Council. He was in Beirut to attend the marriage of his daughter when two men rang the doorbell of his apartment and shot him in the chest. The report of the coroner confirmed that Sheikh Al-Tamimi had been shot in the chest with a 7.65 millimetre calibre military pistol fitted with a silencer.

76. In connection with the assassination, the Lebanese authorities arrested two Iraqi diplomats posted to the Iraqi Embassy in Beirut. The Lebanese authorities have demanded the handing over of two other Iraqi diplomats who are suspects said to have sought refuge in the premises of the Iraqi Embassy. According to the Government of Lebanon, the two arrested admitted that they work for the Iraqi Intelligence services and confessed that they had come to Lebanon under diplomatic cover in order to kill Sheikh Al-Tamimi. The Government of Lebanon has also confirmed to the Special Rapporteur that the two detained Iraqi diplomats confessed to the assassination in the presence of the Iraqi Chargé d'affaires in Beirut and confessed further that the specific execution order was received by telex from Baghdad. The Lebanese newspaper Al-Nahar reported on 16 April 1994 that, in the context of investigations, Lebanese forces searched the houses of the two diplomats and found two 7.65 millimetre calibre military pistols.

77. Following the assassination of Sheikh Al-Tamimi and the arrest of the two suspects, Lebanese authorities demanded that Iraq withdraw the diplomatic immunity of the two diplomats and surrender the two other suspects. On 18 April 1994, with the Lebanese authorities having received no reply from Iraq, and as the confessions by the two diplomats had clearly pointed out Iraqi government involvement, Lebanon decided to sever its diplomatic relations with Iraq and ordered the closure of the Iraqi Embassy in Beirut.

2. The case of Lissy Schmidt

78. In the afternoon of 3 April 1994, the German journalist Lissy Schmidt and her Kurdish bodyguard, Aziz Qadir, were shot dead as they drove on the road between Said Sadiq and the city of Sulaymaniyah. Ms. Schmidt, who had been working in the northern region for a period of three years, was a freelance correspondent principally for the French news agency Agence France Presse.

79. Soon after Ms. Schmidt's assassination, local Kurdish officials arrested two residents of Kirkuk Governorate who confessed to having killed Ms. Schmidt and to having been responsible for other terrorist activities against foreigners in the northern region on behalf of Iraqi intelligence services (Mukhabarat) and for a fee of US$ 1,000 each. The assassins also explained that their families had been taken hostage by the Iraqi authorities pending the successful completion of their terrorist activities in the northern region. The Special Rapporteur is in possession of the names of the confessed killers, the name of the Iraqi intelligence officer who gave them their instructions and a report from the head of security in the northern Kurdish region of Iraq.

3. The case of Mohammed Taqi Al-Khoei

80. Following two years of relentless intimidation and harassment, including specific threats against him dating from his March 1991 arrest with his father, the late Grand Ayatollah Abul Qasim Al-Musawi Al-Khoei, Mohammed Taqi Al-Khoei died in a sudden car accident on the night of 21 July 1994. Specifically, Mr. Al-Khoei was returning to Najaf after having made his weekly visit to the Shiah holy shrine in Karbala when his car crashed into an unlit truck blocking

the divided highway. According to information received by the Special Rapporteur, the accident occurred at about 11 p.m. and resulted in the instantaneous deaths of Mr. Al-Khoei's driver and six-year-old nephew. However, Mr. Al-Khoei and his brother-in-law, Amin Khalkhali, lay for hours beside the road and eventually bled to death before an ambulance was called at around 4 a.m. in order to remove their bodies.

81. Reliable information received by the Special Rapporteur details how Mr. Al-Khoei had been instructed by Iraqi government authorities, on several occasions, to cease his activities abroad in representation of the Shiah religious establishment and community in Iraq, especially his concern over 105 still missing clerics and their family members and government interference in religious affairs in general. Indeed, information in the possession of the Special Rapporteur had caused him to express concern for the safety of Mr. Al-Khoei on two public occasions: in a speech before the Security Council on 11 August 1992 (see S/PV.3105) and in a report to the Commission on Human Rights in February 1993 (E/CN.4/1993/45, paras. 143, 152, 161 and 183). Mr. Al-Khoei had been denied permission to leave Iraq just before his death, causing him to communicate his fears to relatives outside Iraq.

82. With grave concern over the circumstances of Mr. Al-Khoei's death, the Special Rapporteur addressed a letter dated 15 August 1994 to the Minister for Foreign Affairs of the Republic of Iraq requesting the results of a full investigation of the accident and clear identification of those responsible. The Government of Iraq has yet to respond to the request. At the same time, the car involved in the accident was reportedly burned and the driver of the truck cannot be found.

83. Mr. Al-Khoei's death was followed that same morning by his burial, which was reportedly rushed by government officials against the objections of the family. In early October 1994, the Special Rapporteur received information that the Government of Iraq had sequestrated the former home of Mr. Al-Khoei's father (evicting the remaining members of his family) together with 42 other houses which formed part of the religious endowment of the Al-Khoei Foundation of which Mohammed Taqi Al-Khoei was the General Secretary until his death.

C. Conclusions

84. The relevance of the discussion of political killings in Iraq derives from the nature of the violations. As reprehensible as they are as violations of the individual victim's right to life, political killings are most notable because of their intent to violate, by means of terror, the freedoms of opinion and expression of particular groups or the population as a whole. The Special Rapporteur has previously addressed the issue under the broader title "violations affecting the population as a whole" because, although the cases concern the killing of a particular person, the aim of the killing is a political one with the objective of silencing dissent and suppressing opposition.

85. Like all political killings, the assassination of Sheikh Talib Al-Suhail Al-Tamimi is regarded by several sources as a general warning to the opposition

(and perhaps the international community) that the Iraqi Government remains strong, has a long arm and can commit such acts as it wishes, with impunity.

86. The specific context of the assassination of Lissy Schmidt is found in a series of other attacks in the northern Kurdish region at the time, including the bombing of a Swedish journalist's car, injuring the journalist, ambushes of United Nations Guards Contingent vehicles (injuring three United Nations guards), etc.; reports indicated that "bounties" were being offered by Iraqi security services for attacks in the north, especially against foreigners. Certainly, international humanitarian non-governmental organizations (NGOs) understood the attacks, especially the assassination of Ms. Schmidt, as an "alarm signal", which caused some organizations to leave and most to take new security precautions.

87. The death of Mr. Al-Khoei must be viewed in relation to the previous threats against him, his special role as a leading member of the Shiah religious establishment in Iraq, and the history of similar terrorist acts committed against opponents of the Government. The death came in the midst of a collection of repressive acts against the Shiah, such as the closing of the Al-Khadra mosque in Najaf. Moreover, it must be recalled that governmental authorities have been associated with a series of previous fatal car accidents, apparently engineered, such as the well known cases of the former President's son, Mohammed Ahmad Hassan Al-Baqr, the former President of the Workers' Union, Khaled Mouhssen, the Former Minister of Agriculture, Nafid Jalal, the former Minister of Oil, Flaya Hassan al-Jasim, and the former Minister of Justice, Hussein al-Safi.

88. Indeed, Iraq has a long history of terrorist activities, not just within its own territorial jurisdiction, but beyond, as the Al-Tamimi case evidently demonstrates. Such political killings constitute not only a gross violation of the individual victim's human rights, but, by means of terrorism, they constitute a gross violation of the human rights of entire groups of people and, indeed, the population as a whole.

VI. THE RIGHTS TO FOOD AND HEALTH

A. Introduction

89. Iraq is bound to respect the rights to food and health of all persons within its jurisdiction, pursuant to articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, to which Iraq is a State Party. The Special Rapporteur has assessed Iraq's compliance with its obligations to respect the rights to food and health in each of his previous reports (E/CN.4/1992/31, paras. 81-83, 138, 143 (w), 145 (o) and (p), and 158; A/46/647, paras. 52-54, 55 and 95-98; A/47/367 para. 14; A/47/367/Add. 1, paras. 6-14, 56 (a), (b) and (c) and 58 (a), (b) and (c); A/48/600, paras. 33-42, 44-46, 58-59 and 62-88; and E/CN.4/1994/58, paras. 72-79, 152 and 186). Given the special importance attached to the rights to food and health in the prevailing circumstances in Iraq, the Special Rapporteur has continued to seek and to receive detailed information about the situation of

access to food and health care in Iraq. A continuous flow of information has been received from government, inter-governmental and non-governmental sources.

B. Substantive aspects

90. A fairly striking aspect of this subject is to be found in the near unanimity of reports: the situation in Iraq continues to deteriorate. In this connection, the Special Rapporteur takes note of the contents of the extension of the cooperation programme of the United Nations Inter-Agency Humanitarian Programme in Iraq (1 April 1994-31 March 1995) produced by the Department of Humanitarian Affairs of the United Nations Secretariat. More recently, the Special Rapporteur has taken note of the following documents produced by the same Department: the mid-term implementation report (1 April-30 September 1994); planned activities (1 October 1994-31 March 1995); and summary of financial status of contributions (up to 30 September 1994). In addition, the Government of Iraq has, through its Permanent Mission to the United Nations Office at Geneva, regularly provided the Special Rapporteur with information describing the deteriorating situation in the country. In the absence of the Government of Iraq's agreement to station human rights monitors throughout Iraq, the Special Rapporteur has no independent means of measuring or assessing the basic statistical reports communicated to him. However, given the overwhelming agreement on the trends, the Special Rapporteur has no reason to doubt the essential findings of these sources of information.

91. Of evident relevance to the situation of economic rights generally in Iraq are the effects of the sanctions placed on Iraq pursuant to Security Council resolution 661 (1990) of 6 August 1990. As the Special Rapporteur has noted in the past, it must be understood that resolution 661 (1990) explicitly exempts medications and, in humanitarian circumstances, foodstuffs. There is, as such, no embargo on the purchase or supply of medications or foodstuffs. In addition, Security Council resolution 688 (1991) of 5 April 1991 places a special obligation on Iraq to cooperate with international humanitarian agencies and organizations in receiving medications, foodstuffs and related materials for humanitarian purposes in Iraq. Moreover, Security Council resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991 enable Iraq to sell, under United Nations supervision, up to US$ 1.6 billion of oil, of which US$ 900 million would be for medications and foodstuffs. Unfortunately, the Government of Iraq's policy has been thus far not to accept the United Nations-supervised sale of oil for humanitarian purposes, thereby depriving the Iraqi people of the benefits of that significant resource.

92. In the light of the disturbing fact that access to food and health care continues to decline in Iraq for virtually the entire population, it is perhaps more disturbing that little else has changed concerning those matters which the Special Rapporteur has been reporting upon in relation to food and health in Iraq. Specifically, the obvious imbalance between military expenditure and resources allocated to the fields of health care and nutrition continues to illustrate clearly the priorities of the Government of Iraq. Most recently, the Government somehow mustered the overall resources to transport tens of thousands of heavily armed troops up and down the country towards the border with Kuwait. Yet, the Special Rapporteur regularly receives information detailing, e.g., how

difficult it is to obtain spare parts for vehicles to transport fresh water to communities in the southern governorates. Similarly, the status quo remains concerning the evident discrimination within the country at least on a regional basis (if not motivated by other concerns), i.e. the northern region from which the Government withdrew its administration in October 1991 remains under a tight, if not tighter, economic blockade. The central cities of Iraq, especially Tikrit, Samara and parts of Baghdad, continue to enjoy privileges in the distribution of limited resources; while the infrastructure of Baghdad was rebuilt after the Gulf war, that of the southern cities has noticeably lagged behind. Among the social groups of Iraqi society, certain groups remain privileged by comparison to others, e.g. the military and Baath Party elite, although the number of privileged groups appears to be declining along with the number of persons enjoying special privileges within the protected groups. The particularly desperate situation of the Marsh Arab population has been described in section III above.

93. One thing that has changed quite significantly is the amount of nutritional subsidy provided by the Government to each Iraqi citizen. On 24 September 1994, the Government decided that, effective 1 October 1994, the subsidized food ration would be reduced by approximately one third in terms of calorie content. According to a report of the United Nations Children's Fund (UNICEF) published in Baghdad in early October 1994 entitled "Impact of the reduction in food ration on the most vulnerable children and women", the reduction in the government rations means that "more than 2.5 million children, pregnant women and lactating mothers are likely to be at risk." The same report notes that "civil servants and members of the armed forces will receive an allowance of ID 2,000 (US$ 3) a month to meet the shortfall". In addition, the report goes on to point out, the printing of new money to enable the Government to maintain these payments "is likely to further accelerate inflation". Clearly, the most vulnerable will be those outside government pay-rolls and otherwise limited in their possibilities to obtain additional income, such as pensioners and disabled persons. If the Government of Iraq continues to refuse to change its policies, especially concerning Security Council resolutions 706 (1991) and 712 (1991), and in the absence of substantial increases in support for the United Nations Humanitarian Programme in Iraq, many people will suffer even more, including with the loss of their lives.

C. Conclusions

94. The Special Rapporteur recalls that human rights are indivisible and inalienable. They attach to every person by virtue simply of the fact of being human. They are not granted or allotted by the Government of Iraq, the Revolution Command Council or President Saddam Hussein. Having undertaken to respect the specific terms of certain international standards within the jurisdiction of the State of Iraq, the Government and its high officials are under an obligation to respect the human rights of each person in Iraq to food and health.

95. The Special Rapporteur has previously pointed out that respect of the rights to food and health requires specific actions on the part of the Government. Essentially, the Government must distribute the resources at its

disposal for the fullest enjoyment of all humans within its jurisdiction, without discrimination. The Government of Iraq is similarly under a legal obligation to take advantage of such additional resources as may be available to it in order to respond to the needs of the people. In the specific circumstances of the case at hand, this means that the Government of Iraq must cooperate fully with international humanitarian agencies and organizations that offer assistance, both in terms of its obligations arising under the International Covenant on Economic, Social and Cultural Rights and, more explicitly, under Security Council resolution 688 (1991). The Government of Iraq must also accept the United Nations's offer of a supervised sale of "oil for food" under the terms of Security Council resolutions 706 (1991) and 712 (1991).

96. The Special Rapporteur notes that the Government of Iraq has cooperated to a significant degree with United Nations humanitarian agencies on a number of questions. But the Government has also imposed requirements that have not facilitated delivery of assistance swiftly and efficiently to all parts of the country; for example, the United Nations agencies were long since required to withdraw their offices and international staff from the southern governorates. Iraq has also failed to contribute the money it agreed to provide for the Humanitarian Programme in Iraq as a result of the two memoranda of understanding it signed with the United Nations. Moreover, Iraq's stringent operating requirements for humanitarian NGOs have dissuaded most major NGOs from participating in humanitarian projects in government-controlled Iraq.

97. As the situation deteriorates and the Government continues to calculate and publish its own statistics on rising infant mortality rates, the Government also continues to refuse to access the resource benefits of Security Council resolutions 706 (1991) and 712 (1991) on the grounds that to do so would "violate Iraq's sovereignty" or be "insulting". Neither of these assertions has been demonstrated. Instead, while the people suffer and die, Ministers and Generals sit comfortably in their protected environments and argue about abstract infringements of "sovereignty" and alleged "insults". Such determined arguments in the face of widespread and increasing suffering are clearly reprehensible and underlie a gross violation of the fundamental human rights of millions of innocent persons.

98. Finally, the Special Rapporteur cannot help but point out that, had Iraq taken advantage of the sale of "oil for food" authorized by Security Council resolutions 706 (1991) and 712 (1991) in the fall of 1991, there may well have been billions of dollars of resources available for desperately needed medications and foodstuffs and, by the Government of Iraq's own statistics, hundreds of thousands of lives would have been saved.

VII. RECOMMENDATIONS

99. With regard to the matters addressed above, the Special Rapporteur recommends:

(a) That the Government of Iraq act swiftly and with the fullest spirit of cooperation to resolve the cases of Kuwaitis and third-country nationals who disappeared in detention during or subsequent to the Iraqi occupation of Kuwait;

(b) That, in accordance with its obligations under article 118 of the Third Geneva Convention and articles 133 and 134 of the Fourth Geneva Convention, the Government of Iraq provide detailed information on all persons deported from Kuwait between 2 August 1990 and 26 February 1991 and release without further delay any such persons who may remain in government custody;

(c) That, in accordance with its obligations under articles 120 and 121 of the Third Geneva Convention and articles 129, 130 and 131 of the Fourth Geneva Convention, the Government of Iraq provide detailed information on all persons arrested in Kuwait between 2 August 1990 and 26 February 1991, including the fate of those persons;

(d) That, in accordance with its obligations under articles 120 and 121 of the Third Geneva Convention and articles 129, 130 and 131 of the Fourth Geneva Convention, the Government of Iraq provide detailed information on all persons arrested in Kuwait between 2 August 1990 and 26 February 1991 who died in detention during or after that period, as well as information on the location of their graves;

(e) That, in accordance with its obligations under articles 101 and 107 of the Third Geneva Convention and articles 74 and 75 of the Fourth Geneva Convention, the Government of Iraq provide detailed information on all executions of persons arrested in Kuwait between 2 August 1990 and 26 February 1991, whether carried out in Kuwait or Iraq during or after that period, as well as information on the location of their graves;

(f) That, in an effort to resolve the cases of missing Kuwaitis and third-country nationals, the Government of Iraq cooperate with international humanitarian organizations, such as ICRC, facilitate their work and repatriate to their countries of origin all missing persons or their remains, as the case may be;

(g) That the Government of Iraq pay appropriate compensation to the families of such persons who died while in the custody of Iraqi authorities during or subsequent to the Iraqi occupation of Kuwait;

(h) That the Government of Iraq pay compensatory support to the families of persons who were known to be in the custody of Iraqi authorities during or subsequent to the Iraqi occupation of Kuwait, but for whom the Government is so far unable to account;

(i) That, in relation to the southern marsh area and its Marsh Arab population, the Government of Iraq implement without further delay the

recommendations made by the Special Rapporteur in his interim report to the forty-eighth session of the General Assembly (see A/48/600, para. 82) including the immediate halting and reversal of the draining of the marshes and the cessation of its military activities against the civilian population of the area;

(j) That the Government of Iraq immediately abrogate Revolution Command Council Decrees Nos. 59, 92, 93, 109, 115, 116, 117 and 145 and all such other similar laws, decrees, regulations or orders authorizing, or relating to, amputations;

(k) That the Government of Iraq immediately cease to terrorize its civilian population in general, and political opposition groups in particular, by the commission of political killings both within and outside Iraq;

(l) That the Government of Iraq end its internal economic embargoes on both the northern and the southern regions and take steps to cooperate with international humanitarian agencies in the provision of relief to those in need throughout Iraq, as required, inter alia, by Security Council resolution 688 (1991);

(m) That, in order to end the unnecessary suffering of the people of Iraq and to save lives, the Government of Iraq immediately, and at long last, act to take advantage of the "food for oil" formula under Security Council resolutions 706 (1991) and 712 (1991), which, as the Secretary-General has confirmed, would enable the Government to purchase hundreds of millions, if not billions, of dollars worth of urgently needed foodstuffs and medical supplies;

(n) That the Government of Iraq agree to the stationing of United Nations human rights monitors throughout the country;

(o) That, irrespective of the Government of Iraq's position with regard to the stationing of human rights monitors within the country, the General Assembly approve the allocation of sufficient human and material resources for the sending of human rights monitors to such locations as would facilitate improved information flow and assessment and would help in the independent verification of reports on the situation of human rights in Iraq.

Appendix

SELECTED RECENT DECREES OF THE REVOLUTION COMMAND COUNCIL

[Original: Arabic]

Document No. 1

Decree No. 59

Date of Decree: 24 Dhul-Hijjah A.H. 1414/4 June 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. A penalty of amputation of the right hand from the wrist shall be imposed on anyone who commits any of the offences of theft specified in articles 440, 441, 442, 443, 444 and 445 of the Penal Code (Act No. 111 of 1969) and article 117 of the Military Penal Code (Act No. 13 of 1940) and anyone who commits the offence of stealing a vehicle. The left foot shall be amputated from the ankle in the event of a repeated offence.

2. The penalty shall be death instead of amputation if the theft is committed by a person carrying a visible or concealed weapon or if the offence leads to the death of a person.

3. The penalty of amputation shall not apply to crimes of theft in the following circumstances:

(a) If the value of the stolen article does not exceed 5,000 dinars;

(b) If the theft is committed between spouses or relatives to the second degree;

(c) If the perpetrator of the offence is a juvenile.

4. If the court believes that the circumstances of the offender or the offence referred to in paragraphs (a) and (b) of paragraph 3 of this Decree merit clemency in the light of the legally mitigating circumstances, it may impose a penalty of life imprisonment instead of death.

5. This Decree shall enter into force from the date of its publication in the Official Gazette until further notice.

Saddam HUSSEIN
Chairman of the Revolution Command Council

Document No. 2

Decree No. 92

Date of Decree: 12 Safar A.H. 1415/21 July 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. A penalty of life imprisonment or amputation of the right hand from the wrist shall be imposed on anyone who falsifies an official document if such falsification leads to the achievement of an illicit benefit for him or deprives another person of the enjoyment of his rights.

2. This Decree shall enter into force from the date of its publication in the Official Gazette and shall apply to offences committed after its entry into force and until further notice.

Saddam HUSSEIN
Chairman of the Revolution Command Council

Document No. 3

Decree No. 93

Date of Decree: 14 Safar A.H. 1415/23 July 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. Deserters from, and evaders of, military service are prohibited from:

(a) Concluding contracts concerning the use of agricultural land or land allocated for industrial purposes;

(b) Taking part in public auctions for the purchase of State-owned property or in any way leasing such property or concluding contracts concerning the use thereof;

(c) Engaging in commerce;

(d) Making use of land or housing owned by the State or the Socialist sector, with the exception of housing occupied or ready for occupation prior to the entry into force of this Decree.

2. Contracts concluded by the persons covered by the provisions of section I of this Decree shall be cancelled.

3. This Decree shall enter into force on the date of its publication in the Official Gazette.

Saddam HUSSEIN
Chairman of the Revolution Command Council

Document No. 4

Decree No. 116

Date of Decree: 18 Rabi' I A.H. 1415/25 August 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. The following paragraph shall be added to section 1 of Revolution Command Council Decree No. 93 of 23 July 1994, of which it shall constitute subparagraph (e):

"(e) Acquisition, in any way, of ownership of real estate."

2. This Decree shall enter into force on the date of its promulgation.

Saddam HUSSEIN
Chairman of the Revolution Command Council

Document No. 5

Decree No. 109

Date of Decree: 11 Rabi' I A.H. 1415/18 August 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. Every person legally punished by amputation of the hand for a crime punishable by amputation of the hand shall be tattooed with a cross between the eyebrows. Each intersecting line of the cross shall be 1 centimetre in length and 1 millimetre thick.

2. The tattoo shall be carried out in the same public hospital in which the amputation was performed.

3. The public hospital shall prepare the technical and medical requirements to facilitate the performance of the tattooing procedure.

4. This Decree shall enter into force from the date of its publication in the Official Gazette until further notice, and shall apply retroactively to every person who has already been punished by amputation of the hand.

Saddam HUSSEIN
Chairman of the Revolution Command Council

Document No. 6

Decree No. 115

Date of Decree: 18 Rabi' I A.H. 1415/25 August 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. The auricle of one ear shall be cut off any person committing the following crimes:

(a) Evading to perform military service;

(b) Deserting from military service;

(c) Sheltering or protecting anyone who has evaded or deserted from military service.

2. The auricle of the other ear shall be cut off in the case of a second offence involving any of the crimes specified in paragraph 1 of this Decree.

3. A horizontal line 1 millimetre thick and no less than 3 centimetres and no more than 5 centimetres long shall be tattooed on the forehead of every person whose ear has been cut off.

4. The cutting off of the auricle of the ear, and the tattooing, shall be performed in accordance with the directives to be issued by the Office of the President in this respect.

5. Death by firing squad shall be the penalty for anyone who:

(a) Has deserted from military service three times;

(b) Has evaded military service and subsequently deserted twice;

(c) Has three times protected or sheltered any deserter from or evader of military service.

6. For the purposes of the application of the provisions of this Decree, a deserter shall be considered to be any person who has been absent from his unit without authorized leave for more than 15 days.

7. (a) These legal processes shall not apply to any evader of or deserter from military service who surrenders within seven days of the date of the promulgation of this Decree to authorities to be specified by the Office of the President.

(b) The period specified in paragraph (a) of this article shall be 30 days for anyone outside Iraq.

8. The provisions of this Decree shall apply to those who evaded or deserted from military service prior to the promulgation of this Decree, should they fail to surrender themselves within the period specified in article 7 of this Decree.

9. The authorities competent to implement the provisions of this Decree shall be specified by the Office of the President.

10. (a) This Decree shall enter into force from the date of its promulgation until further notice.

(b) Any text which conflicts with the provisions of this Decree shall be null and void.

Saddam HUSSEIN
Chairman of the Revolution Command Council

Document No. 7

Decree No. 117

Date of Decree: 18 Rabi' I A.H. 1415/25 August 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. (a) It is prohibited to remove the tattoo placed as a result of the commission of a crime punishable by amputation of the hand or the ear.

(b) Anyone who removes, or helps to remove, the tattoo or carries out cosmetic surgery of the amputated hand or ear shall be punished by amputation of the hand or the ear, together with a tattoo, as appropriate.

2. The penalty imposed on anyone punished by amputation of the hand or the ear and the tattoo shall be entered in the civil status identity card, the certificate of nationality, the military service record book and other official documents establishing identity.

3. The civil and penal consequences of the penalty of amputation of the hand or the ear and the tattoo shall be annulled if the person so punished performs a patriotic or heroic act to which a witness can testify.

4. This Decree shall enter into force from the date of its promulgation until further notice.

Saddam HUSSEIN
Chairman of the Revolution Command Council

Document No. 8

Decree No. 145

Date of Decree: 29 Rabi' I A.H. 1415/5 September 1994

Pursuant to the provisions of article 42, paragraph 1, of the Constitution, the Revolution Command Council has decreed as follows:

1. Anyone liable to compulsory military service shall be exempted therefrom upon completion of the 90 day basic training period and payment of a cash alternative of 0.5 million dinars.

2. Anyone liable to reserve military service shall be exempted therefrom upon payment of a cash alternative of 1 million dinars.

3. The provisions of article 1 and article 2 above shall apply to those already performing military service and those who shall perform it subsequent to the promulgation of this Decree.

4. The Minister of Defence shall issue the directives which will facilitate the implementation of the provisions of this Decree.

5. This Decree shall enter into force from the date of its promulgation and shall remain in force until further notice.

Saddam HUSSEIN
Chairman of the Revolution Command Council

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Forty-ninth session
Agenda item 65

ISRAELI NUCLEAR ARMAMENT

Report of the Secretary-General

1. At its forty-eighth session, the General Assembly adopted resolution 48/78 of 16 December 1993 entitled "Israeli nuclear armament", the operative part of which, inter alia, reads as follows:

> "The General Assembly,
>
> "...
>
> "1. Calls upon Israel to renounce possession of nuclear weapons and to accede to the Treaty on the Non-Proliferation of Nuclear Weapons; 1/
>
> "2. Calls upon the States of the region to place all their nuclear facilities under International Atomic Energy Agency safeguards;
>
> "3. Requests the Secretary-General to report to the General Assembly on the implementation of the present resolution;
>
> "... ."

2. This report is being submitted pursuant to paragraph 3 of the above resolution. Apart from the materials forwarded by the International Atomic Energy Agency (see annexes below), the Secretary-General has not received any additional information since the submission of his last report on the subject (A/48/494) to the General Assembly at its forty-eighth session.

Notes

1/ United Nations, Treaty Series, vol. 729, No. 10485.

ANNEX I

Resolution GC(XXXVIII)/RES/21 of 23 September 1994 of the General Conference of the International Atomic Energy Agency

Application of IAEA safeguards in the Middle East

The General Conference,

(a) Recognizing the importance of the non-proliferation of nuclear weapons - both globally and regionally - in enhancing international peace and security,

(b) Mindful of the usefulness of the Agency's safeguards system as a reliable means of verification of the peaceful uses of nuclear energy,

(c) Concerned by the grave consequences, endangering peace and security, of the presence in the Middle East region of nuclear activities not wholly devoted to peaceful purposes,

(d) Welcoming the initiatives regarding the establishment of a zone free of all weapons of mass destruction, including nuclear weapons, in the Middle East and recent initiatives regarding arms control in the region,

(e) Recognizing that full realization of these objectives would be promoted by participation of all States of the region,

(f) Commending the efforts of the Agency concerning the application of safeguards in the Middle East, and the positive response of some States in concluding a full-scope safeguards agreement, and

(g) Recalling its resolution GC(XXXVII)/RES/627,

1. Takes note of the Director General's report in document GOV/2757-GC(XXXVIII)/18;

2. Affirms the urgent need for all States in the Middle East to forthwith accept the application of full-scope Agency safeguards to all their nuclear activities as an important confidence-building measure among all States in the region and as a step in enhancing peace and security in the context of the establishment of a nuclear-weapon-free zone (NWFZ);

3. Calls upon all parties directly concerned to consider seriously taking the practical and appropriate steps required for the implementation of the proposal to establish a mutually and effectively verifiable NWFZ in the region, and invites the countries concerned to adhere to international non-proliferation regimes, including the Treaty on the Non-Proliferation of Nuclear Weapons, as a means of complementing participation in a zone free of all weapons of mass destruction in the Middle East and of strengthening peace and security in the region;

4. Takes note of the importance of the ongoing bilateral Middle East peace negotiations and the activities of the multilateral working group on Arms Control and Regional Security in promoting mutual confidence and security in the Middle East, including establishment of a NWFZ, and calls on the Director General, as requested by the participants, to render all necessary assistance to the working group in promoting that objective;

5. Requests the Director General to continue consultations with the States of the Middle East to facilitate the early application of full-scope Agency safeguards to all nuclear activities in the region as relevant to the preparation of model agreements, as a necessary step towards the establishment of a NWFZ in the region, referred to in resolution GC(XXXVII)/RES/627;

6. Calls upon all States in the region to extend their fullest cooperation to the Director General in the fulfilment of the tasks entrusted to him in the preceding paragraph;

7. Further calls upon all States in the region to take measures, including confidence-building and verification measures, aimed at establishing a NWFZ in the Middle East;

8. Calls upon all other States, especially those with a special responsibility for the maintenance of international peace and security, to render all assistance to the Director General by facilitating the implementation of this resolution; and

9. Requests the Director General to submit to the Board of Governors and the General Conference at its thirty-ninth regular session a report on the implementation of this resolution and to include in the provisional agenda for that session an item entitled "Application of IAEA safeguards in the Middle East".

ANNEX II

Report of the Director General on application of IAEA safeguards in the Middle East

1. In its resolution GC(XXXVII)/RES/627 of 1 October 1993, a/ the General Conference requested the Director General, on the basis of his report contained in document GOV/2682-GC(XXXVII)/1072,

> "to continue consultations with the States of the Middle East to facilitate the early application of full-scope Agency safeguards to all nuclear activities in the region as relevant to the preparation of model agreements, as a necessary step towards the establishment of a nuclear-weapon-free zone (NWFZ) in the region, referred to in resolution GC(XXXVI)/RES/601".

2. In that resolution, the General Conference took note of the importance of the ongoing bilateral Middle East peace negotiations and the activities of the Multilateral Working Group on Arms Control and Regional Security in promoting mutual confidence and security in the Middle East, including the establishment of a nuclear-weapon-free zone, and called upon the Director General, as requested by the participants, "to render all necessary assistance to the working group in promoting that objective".

3. The Director General was further requested "to submit to the Board of Governors and to the General Conference at its thirty-eighth regular session a report on the implementation of this resolution ...".

4. In paragraph 18 of his 1993 report (GOV/2682-GC(XXXVII)/1072), the Director General said that, to assist him in implementing the mandate conferred upon him by the General Conference in its resolution GC(XXXVI)/RES/601 of 25 September 1992, b/ it would be helpful if States which had not yet done so were to respond to his request for views on the material obligations that could be included in a Middle East nuclear-weapon-free zone agreement and on specific verification requirements and modalities as described in his 1992 report to the General Conference (GC(XXXVI)/1019). He had requested those views in his letters of November 1992 to the Governments of States in the Middle East. By the time of the 1993 General Conference, only six States in the Middle East had responded. Several of these replies were only of a general nature and did not address substantively the specific issues raised. Despite the call upon States in the region, in resolution GC(XXXVII)/RES/627, to extend their fullest cooperation to the Director General in the fulfilment of the tasks entrusted to him, no additional views have yet been received in writing.

5. In this general connection however, and as foreshadowed by paragraph 19 of his 1993 report, the Director General has continued his consultations with States of the Middle East, including further visits to the Middle East region. Since the report was issued he has visited the United Arab Emirates, Yemen, Lebanon and the Islamic Republic of Iran.

6. During these visits, the Director General highlighted the importance of verification for a nuclear-weapon-free zone and again explained the different options and modalities available in that respect. He also continued to emphasize the importance of nuclear transparency and active cooperation as important confidence-building measures in any nuclear-weapon-free zone, and listened to the views of the relevant States on their concept of a nuclear-weapon-free zone in the Middle East and on the requirements and modalities for verifying compliance in any such zone.

7. All the States visited continued to emphasize the need for a nuclear-weapon-free zone in the Middle East and the importance of effective and credible verification of the obligations assumed by the parties to any such zone. The view was also expressed that, as a preliminary step towards the conclusion of a nuclear-weapon-free zone in the region, all States concerned should accede to the Treaty on the Non-Proliferation of Nuclear Weapons. c/

8. In paragraph 11 of his 1993 report, the Director General explained that, with the objective of helping to familiarize regional experts with the type of issues and options relevant to verification which would have to be examined and decided upon in any negotiations on a nuclear-weapon-free zone in the region of the Middle East, the Secretariat had participated, as part of the United Nations delegation, in the 3rd meeting of the Multilateral Working Group on Arms Control and Regional Security held in Washington from 18 to 20 May 1993.

9. Since then, and in fulfilment of the mandate conferred upon the Director General in resolution GC(XXXVII)/RES/627, the Secretariat has participated, also as part of the United Nations delegation, in meetings of the Working Group held in Moscow on 3 and 4 November 1993 and at Doha from 2 to 5 May 1994.

10. Twenty-five regional and extraregional delegations participated in the Moscow meeting, which took place against the backdrop of important developments in the bilateral peace process, namely the signing of the Israeli-PLO Declaration of Principles d/ and the Israel-Jordan Common Agenda. e/ The Working Group, inter alia, reviewed and welcomed the constructive work which had been accomplished since its meeting in Washington in the area of practical activities designed ultimately to lead to the formulation of specific confidence-building measures for the Middle East region. At its 4th plenary meeting, in Moscow, motivated by breakthroughs in the bilateral track of the peace negotiations and the wish to build effectively on the achievements of the preceding inter-sessional period, the Working Group endorsed further and accelerated follow-up activities. These included, inter alia, specific activities related to verification.

11. Following this, an Agency expert was invited to make one of three presentations on verification at a workshop held in Cairo from 31 January to 3 February 1994 within the framework of the "conceptual basket" of arms control and regional security. The presentation, entitled "Detecting prohibited nuclear activities: IAEA experience", was given by the Assistant Director General for External Relations. The workshop provided a useful opportunity for an exchange of views between participants.

12. At its 5th plenary meeting, at Doha, the Working Group continued to consider verification issues and proposals for further work in this area. In the light of the mandate conferred upon the Director General by the General Conference in its resolution GC(XXXVII)/RES/627 to render assistance to the Working Group, a specific proposal was put forward for a practical activity, already being considered by the Secretariat as a follow-up to the workshop held at Vienna from 4 to 7 May 1993 on the modalities for the application of safeguards in a future nuclear-weapon-free zone in the Middle East.

13. As now envisaged in the context of the Working Group's activities, the proposal would involve a visit by regional participants in its deliberations to a nuclear power plant in Europe. The aims of such a visit would be to give representatives of Middle East States a practical demonstration of verification techniques and to acquaint them more fully with the ways in which regional verification structures and activities complement international verification efforts in Europe. The Secretariat considers that such a proposal could be a further example of the Agency's potential, within its mandate, to render assistance to States of the Middle East, as requested.

14. The Director General intends to continue to pursue his consultations with States of the Middle East through visits to the region and at Vienna. It is to be hoped that through additional written replies, these consultations and the Agency's participation in the Multilateral Working Group on Arms Control and Regional Security, the views of the States concerned on the material obligations to be assumed with regard to a Middle East nuclear-weapon-free zone will crystallize to an extent that could enable the Director General to prepare the model verification agreements envisaged in resolutions GC(XXXVI)/RES/601 and GC(XXXVII)/RES/627.

Notes

a/ See International Atomic Energy Agency, Resolutions and Other Decisions of the General Conference, Thirty-seventh Regular Session, 27 September-1 October 1993 (GC(XXXVII)/RESOLUTIONS(1993)).

b/ Ibid., Thirty-sixth Regular Session, 21-25 September 1992 (GC(XXXVI)/RESOLUTIONS(1992)).

c/ United Nations, Treaty Series, vol. 729, No. 10485.

d/ Declaration of Principles on Interim Self-Government Arrangements, including its Annexes and Agreed Minutes, by the Government of the State of Israel and the Palestine Liberation Organization on 13 September 1993 in Washington, D.C.

e/ Common Agenda between Israel and Jordan, done in Washington, D.C., 14 September 1993.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Right to development

Report of the Secretary-General

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I. INTRODUCTION

1. In its resolution 48/130 of 20 December 1993, the General Assembly, reiterating the importance of the right to development for all countries, in particular the developing countries, and mindful that the Commission on Human Rights had entered a new phase at its forty-ninth session in its consideration of the matter, which was directed towards the implementation and further enhancement of the right to development, requested the Secretary-General to submit to the Commission on Human Rights at its fiftieth session concrete proposals on the effective implementation and promotion of the Declaration on the Right to Development, taking into account the views expressed on the issue at the forty-ninth session of the Commission as well as any further comments and suggestions that might be submitted pursuant to paragraph 10 of Commission resolution 1993/22 of 4 March 1993.

2. In the same resolution, the General Assembly also requested the Secretary-General to continue coordination of the various activities with regard to the implementation of the Declaration.

3. The General Assembly urged all relevant bodies of the United Nations system, particularly the specialized agencies, when planning their programmes of activities, to take due account of the Declaration and to make efforts to enhance their cooperation in its application.

4. The General Assembly also urged the regional commissions and regional intergovernmental organizations to convene meetings of governmental experts and representatives of non-governmental and grass-roots organizations for the purpose of seeking agreements for the implementation of the Declaration through international cooperation.

5. In its resolution 1993/22, the Commission on Human Rights had recalled that the right to development was an inalienable human right by virtue of which every human person and all peoples were entitled to participate in, contribute to and enjoy economic, social and cultural, and political development in which all human rights and fundamental freedoms could be fully realized, and had taken note with appreciation of the report of the Secretary-General, 1/ containing concrete proposals for the effective implementation and promotion of the Declaration on the Right to Development.

6. Also in its resolution 1993/22, the Commission on Human Rights decided to establish, initially for a three-year period, a working group on the right to development with the following mandate:

(a) To identify obstacles to the implementation and realization of the Declaration on the Right to Development, on the basis of information furnished by Member States and other appropriate sources;

(b) To recommend ways and means towards the realization of the right to development by all States.

7. In pursuance of that resolution, the Secretary-General addressed a letter on 6 December 1993 to, among others, United Nations bodies and specialized agencies on the subject of the obstacles to the implementation and realization of the Declaration on the Right to Development.

8. In its resolution 1994/21 of 1 March 1994, the Commission on Human Rights requested the Secretary-General to invite Governments, international financial institutions, the regional economic commissions, the relevant bodies and organizations of the United Nations system and non-governmental organizations to provide the Working Group on the Right to Development with the necessary additional information, taking into account, inter alia, the preliminary guidelines and the check-list contained in annex 1 to the report of the Working Group on its first session. 2/ Pursuant to this request, the Secretary-General, on 26 April 1994, addressed a letter to, among others, the United Nations bodies and specialized agencies, transmitting Commission resolution 1994/21, as well as the guidelines and checklist, as prepared by the Working Group.

9. In reply to the above requests for information, the Secretary-General received comments from the following United Nations bodies: Committee on the Elimination of Racial Discrimination (27 December 1993); United Nations Centre for Human Settlements (Habitat) (5 January 1994); United Nations Conference on Trade and Development (UNCTAD) (23 March 1994); Department of Peace-keeping Operations of the Secretariat (3 January 1994); Department for Economic and Social Information and Policy Analysis of the Secretariat (22 June 1994); United Nations Development Programme (UNDP) (6 January and 26 May 1994); Division for the Advancement of Women of the Secretariat (24 June 1994); United Nations Environment Programme (UNEP)/Convention on Biological Diversity (15 June 1994); Office of the United Nations High Commissioner for Refugees (UNHCR) (11 April and 25 July 1994); and World Food Programme (WFP) (30 June 1994); as well as from the following specialized agencies: Food and Agriculture Organization of the United Nations (FAO) (31 March 1994); International Labour Organization (ILO) (28 December 1993); International Monetary Fund (IMF) (30 December 1993 and 6 July 1994); United Nations Educational, Scientific and Cultural Organization (UNESCO) (14 March 1994); and World Health Organization (WHO) (8 August 1994).

10. Information was also received from the following regional commissions: Economic Commission for Europe (ECE) (25 February 1994); Economic Commission for Latin America and the Caribbean (ECLAC) (18 January and 13 May 1994); and Economic and Social Commission for Asia and the Pacific (ESCAP) (21 December 1993 and 13 May 1994); as well as from the following regional intergovernmental organizations: European Commission (10 June 1994); League of Arab States (LAS) (1 March and 13 June 1994); and Organisation for Economic Cooperation and Development (OECD) (14 January 1994).

11. The Working Group on the Right to Development held its first session from 8 to 19 November 1993 and devoted part of that session to a dialogue with the international organizations that attended the session. The Working Group also had a general debate on an initial approach to the obstacles hampering the application of the Declaration on the Right to Development. During that session representatives from the following United Nations bodies addressed the Working Group: United Nations Centre for Human Settlements (Habitat); UNCTAD; UNDP;

UNHCR; United Nations Population Fund (UNFPA); and UNEP, as well as from the following specialized agencies: ILO and IMF.

12. During its second session, which was held from 2 to 13 May 1994, the Working Group considered the implementation of the Declaration on the Right to Development by the international organizations. Representatives from the following United Nations bodies addressed the Working Group: Committee on Economic, Social and Cultural Rights; UNCTAD; UNDP; and ECE, as well as from the following specialized agencies: ILO; IMF; and World Bank. 3/

13. The Working Group held its third session from 3 to 14 October 1994. During this meeting, a representative of the Committee on the Rights of the Child addressed the Working Group. The report of the Working Group on the Right to Development on its third session will be submitted to the Commission on Human Rights at its fifty-first session.

14. The present report is prepared in pursuance of General Assembly resolution 48/130 and contains the information received from the organizations, programmes and agencies of the United Nations system for the implementation of the Declaration on the Right to Development, as well as from the regional commissions and regional intergovernmental organizations, on the basis of their contributions to the work of the Working Group.

II. COMMENTS RECEIVED FROM UNITED NATIONS BODIES

A. Committee on Economic, Social and Cultural Rights

15. In addressing the Working Group, the Chairperson of the Committee on Economic, Social and Cultural Rights indicated that his Committee closely followed the work of the Working Group. In his view, there was a trend of continuing marginalization of economic, social and cultural rights in the broader United Nations context. With some exceptions, none of the organizations referred to economic, social and cultural rights as rights. Although statements were made at the rhetorical level, to his knowledge there had never been an operational attempt to give content to economic, social and cultural rights, nor to include them in overall strategies or specific objectives pursued.

16. An example was the World Summit for Social Development, in the preparatory process of which the International Covenant on Economic, Social and Cultural Rights had hardly played a role, although the Covenant was a binding international treaty, ratified by over 130 States parties, and covered obligations which went to the heart of the issues facing the Summit.

17. In general, there seemed to be a mutually acceptable attempt to move away from the framework of international human rights law: the notion of democracy dominated the discourse in countries of the North, but that notion was all too often not defined by reference to the specific rights contained in the International Covenants on Human Rights; countries of the South were happy to talk about the importance of development, but generally did not do so in a manner which reflected economic, social and cultural rights considerations.

18. The importance of the right to development stemmed from the fact that it was more than the sum of its parts, more than the accumulation of individual human rights already recognized. It emphasized the need to achieve a synthesis of those rights as well as an interaction and, in particular, addressed the complexities of implementing such rights. Hence, the Declaration should be seen in its context, for which it was always necessary to go back to its constituent parts, which were the rights recognized in the two Covenants. If the right to development was taken entirely out of that particular context the risk existed that it would have no meaning.

19. There could not be an agreement on any abstract definition of development or democracy, nor should those broad objectives be accepted as adequate benchmarks in evaluating progress towards achieving the right to development. Instead, it was essential to rely heavily upon the rights recognized in the two Covenants, as defined and interpreted in the light of evolving circumstances, which were the only internationally agreed binding and relatively precise standards that existed. The provisions of the Declaration on the Right to Development had an enormous potential, if seen in the context of the two Covenants. Article 28 of the Universal Declaration on Human Rights and articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights provided a more than sufficient basis to develop further the concept of international solidarity for the promotion of human rights, to give but one example.

20. The challenge at present in the debate on the right to development was to become more specific. As long as the debate remained at a vague and rhetorical level it would have minimal practical relevance. Potentially very productive starting points in such a debate could include:

(a) Calling for writing off debt directly linked to undertakings by Governments to devote the relevant resources to the realization of economic, social and cultural rights. That could lead to a more sustained debt relief programme and a more sustained transfer of resources. So far that linkage had not been made, although some of its ideas were now reflected in the 20:20 compact for human development;

(b) Encouraging States to take, at the national level, all necessary measures for the realization of the right to development, as provided for in article 8, paragraph 1 of the Declaration. The Committee on Economic, Social and Cultural Rights had requested States parties to establish basic benchmarks at the national level for achieving essential minimum levels of satisfaction of each individual economic, social and cultural right. Such benchmarks, which could not be set across the board, should take into consideration local specificities and characteristics. States could use those benchmarks in seeking international cooperation. In addition, a national human rights and development strategy could be prepared by each Government, including steps to give effect to the right to development on the basis of the provisions of the Declaration on the Right to Development;

(c) Studying the implications for economic, social and cultural rights, in response to the dramatic changes resulting from the widespread embrace of the

free market, including ways in which to uphold the minimum obligations of Governments for ensuring human rights;

(d) Investigating the possibilities of incorporating explicit human rights standards in the domain of development policy. Such efforts had so far failed. However, human rights should play a role in international development policy and practice.

21. Concerning the implementation of economic, social and cultural rights at the national level, it was often stated that the International Covenant on Economic, Social and Cultural Rights was too vague to be of operational significance. That was said to prevent agencies such as UNDP from formulating policies on the basis of such general standards. However, if an analogy was drawn with the International Covenant on Civil and Political Rights, one could see that those provisions were also formulated very broadly. However, in relation to those rights a shared understanding had evolved as to the content and meaning, based on experience and concrete cases. The last decade had seen the universal acceptance of detailed standards relating to civil and political rights. A similar evolution was now required in the field of economic, social and cultural rights. The provisions contained in the International Covenant on Economic, Social and Cultural Rights were capable of going through the same process. However, so far no such attempt had been made in the United Nations context. It seemed that Governments wanted to maintain total flexibility for themselves in the economic and social domain and did not want to constrain their options.

22. For example, if it was accepted that the provision of universal, free, compulsory primary education was a matter that every Government must ensure, without excuses or other purported justifications, the world would have laid the foundations for the realization of economic, social and cultural rights. The key question was how to implement such provisions at the domestic level. While specific civil and political rights standards were more or less capable of universal application, that could not be said for economic, social and cultural rights. Therefore, it was imperative that each State determined its own benchmarks for achieving essential minimum levels of each of the rights. That in turn could lead to a process of accountability and transparency, in which public pressure could contribute to States being held accountable for their own policies.

23. Another obstacle in treating economic, social and cultural rights as human rights had been the traditional focus by human rights lawyers on justiciability: in that view a right was only a right when an individual could challenge its violation before a court. The emphasis in the approach to economic, social and cultural rights should perhaps not be on justiciability but rather on processes of accountability.

24. Nevertheless, some elements of justiciability could be achieved through means of "class actions" where a certain minimum number of people who had the same complaint had a right of administrative action to demand from a Government that appropriate measures be taken. That could eventually result in the case going before a court. However, such an approach must not be taken too far, for

there were very few countries in the world whose present legal systems could cope effectively with such "class actions".

B. Committee on the Elimination of Racial Discrimination

25. In its reply, the Committee on the Elimination of Racial Discrimination stressed that one of the main obstacles to due observance and implementation of the Declaration on the Right to Development was the persistence of racial discrimination and racism, a scourge which, despite the international community's enormous efforts, including those made by the Committee, continued to exist in the majority of countries and was revived by the armed conflicts of a political, economic or social nature being witnessed at the present time.

26. In the view of the Committee, one of the most effective means of terminating that harmful phenomenon and thus ensuring that the Declaration was properly observed and implemented by all States, was for States parties to comply fully and faithfully with the obligations deriving from the International Convention on the Elimination of All Forms of Racial Discrimination and for States that had not yet done so to ratify or accede to that instrument, which "has been - and it remains today - the international community's only tool for combating racial discrimination which is at one and the same time universal in reach, comprehensive in scope, legally binding in character and equipped with built-in measures of implementation, including an international machinery - a pioneer in the field - responsible for monitoring the actual implementation of their obligations by the contracting sovereign States". 4/

C. Committee on the Rights of the Child

27. When addressing the Working Group, the Committee on the Rights of the Child submitted that the Convention on the Rights of the Child focused on all aspects of human rights and underscored that the respect and promotion of some human rights could not be seen separately from the realization of other human rights. The Committee had followed that integrated approach by requesting States parties, when reporting on the implementation of the Convention, to reflect in an overall way four major principles of the Convention: non-discrimination; the best interest of the child; the right to life, survival and development; the right of participation.

28. By virtue of article 4 of the Convention, States parties were requested to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the Convention. With regard to economic, social and cultural rights, that should be done to the maximum extent of their available resources and, where necessary, within the framework of international cooperation. The Committee on the Rights of the Child was the only treaty body that has been requested to play a role when it came to international assistance to remedy human rights problems. In accordance with article 45 (b) of the Convention, the Committee had the authority to transfer to any relevant United Nations body or agency or other competent body any request for technical advice and assistance from a Government, together with its own comments. So far, that had been done through discussion of the concluding

observations on States parties reports with ILO, UNICEF, UNHCR, WHO and UNESCO, which could be seen as a fairly quick response from the international community to the problems defined by the Committee.

D. United Nations Centre for Human Settlements (Habitat)

29. The United Nations Centre for Human Settlements (Habitat) pointed out that in its view the process of promoting the right to development was one of the most important channels where the United Nations - in a system-wide approach - could contribute to the development efforts of many countries and the international organizations active in that field. That issue was considered as fundamental in guiding the efforts of Habitat in improving the quality of life of the world's population in human settlements and in pursuit of that objective, its diverse research programmes and technical cooperation activities aimed to improve the housing, working and living conditions in human settlements.

30. Lack of comprehensive policies to guide human settlements planning, management and development and/or the inadequacy of such policies along with a lack of political commitment and constructive awareness of those issues in many parts of the world seemed to be major obstacles in the utilization of that great potential: the role and contribution of human settlements to the global development process had not yet been fully recognized.

31. In the view of Habitat it was essential to regard the fields of "human settlements" and "shelter" as the two fundamental areas where the policies aiming at the realization of the right to development should be put into action and be promoted by all appropriate means.

32. Democratization, decentralization, gender awareness, promotion of the concepts of participation, enabling and sustainable strategies, alleviation of poverty are the basic principles that were globally accepted as constituting fundamental prerequisites to development. In all the processes to implement those principles, efficient and effective human settlements development and management were a key factor. Inadequacy of urban services, lack of sufficient infrastructure, lack of adequate shelter, insecurity of tenure, particularly in the informal settlements which was the dominant form of urban development in many parts of the developing world, were serious barriers to the promotion and implementation of the right to development.

33. Habitat stressed the vital role of the realization of the right to adequate housing promoting the right to development. Housing, the most important single investment in the lifetime of the majority of the world's population, should not be considered only in its physical "shelter" concept, but should be given full consideration as the most important element of family life where all the social, economic, cultural and political activities began and were sustained.

34. Habitat also mentioned its new programme for the biennium 1994-1995 on the realization of the human right to adequate housing. That programme would provide assistance to Member States on how to realize that right most effectively and monitor the developments in that direction.

E. United Nations Conference on Trade and Development

35. UNCTAD submitted that its contribution to the collective endeavour of the United Nations system aimed at promoting the realization of the right to development by all States could be in the following:

(a) Demonstrating to what extent and through which mechanisms the restrictions on access to markets, the decrease in commodity prices, the inadequacy of development finance and the weight of debt constituted real and concrete obstacles to development;

(b) Identifying the main determinants which shaped the international economic environment and the policy orientations required for making the latter favourable to development;

(c) Advising, in its fields of competence, on measures and policies essential for fostering development in the national framework.

36. UNCTAD further referred to its ideas, described in its publications, on such issues as overcoming the debt crisis and the internalization of environmental costs, critical for reinvigorating international economic and social cooperation in the contemporary world context and hence to the realization of the right to development.

37. The final document adopted by the Conference at its eighth session, entitled "A new partnership for development: The Cartagena Commitment", 5/ was thought to be of use in the deliberations in respect of the global review of the context and framework for the realization of the right to development and the analysis of a number of specific obstacles to development.

38. The phenomenon of interdependence and growing globalization which now characterizes the international environment, as described in the final document of the Conference at its eighth session, had substantial consequences for development: it made economic processes increasingly complex and led to a diverse range of actors and, above all, to profound changes in their respective roles and importance.

39. The same document described new opportunities as well as risks inherent in the current developments. The accelerated globalization of the economy had given rise to an extremely wide range of development situations: on the one hand, countries that had already reached a certain level of development could grasp the new economic opportunities in order to consolidate that level further; on the other, countries with weaker economies faced huge difficulties in overcoming their handicaps and benefiting from the opportunities arising from an open, globalized economy.

40. A risk of growing inequality in access to the right to development emerged; the trend toward polarization which was manifested between countries could also be seen between population categories within countries, which were experiencing growing inequality in access to economic, social and cultural rights.

41. At its eighth session, the Conference identified points of convergence and consensus on major development priorities, such as:

(a) Economic reforms must be pursued so that they led effectively to sustained and non-inflationary growth;

(b) That growth must be accompanied by social progress, particularly through the development of human resources, in order to ensure an authentic process of development (balance between economic efficiency and social equity);

(c) The establishment of democratic systems based on popular involvement and respect for all human rights were essential factors in development;

(d) Efforts to combat poverty constituted a prime objective for which the efforts of each country individually and the international community as a whole must be mobilized;

(e) The environment was a major challenge for sustainable development and as such must also constitute a priority.

42. The pursuit of these priorities called for effective measures at the national level, firmly supported by international cooperation in the context of strengthened global dialogue: that forms the very foundation of the new partnership for development.

43. The Conference also identified two main avenues for achieving such a partnership for development. While developing countries reaffirmed their primary responsibility for their own economic and social development, in accordance with their priorities and plans, as well as their political and cultural diversities, the developed countries had a special responsibility, in the context of growing interdependence, to create a global economic environment favourable to accelerated and sustainable development. They must also continue to provide adequate support for the efforts made by the developing countries.

44. That joint responsibility was essential to ensure effective development measures: without healthy national policies, international support could not be fully effective; conversely, sound national policies were insufficient without external support for the weakest countries and, in general, they ran the risk of being cancelled out by an unfavourable international economic environment.

45. The reduction of the freedom of action enjoyed by States to set their economic policies reinforced the close interrelationship between the national and international levels of responsibility. It was for that reason that the realization of economic, social and cultural rights must also be dealt with in relation to international cooperation.

46. In addressing the Working Group, UNCTAD submitted that the realization of the right to development involved the joint responsibility of a network of actors. The two principal actors were:

(a) States, whose primary responsibilities were:

(i) To guarantee fundamental freedoms, respect for human rights and personal security;

(ii) To promote effective, honest and equitable public administration and guarantee the impartial operation of the courts of law;

(iii) To establish a regulatory framework and economic instruments which ensured the transparent operation of the market and corrected its deficiencies;

(iv) To implement policies for the development of human resources;

(v) To achieve a degree of equity in the allocation of resources and incomes; 6/

(b) The international community, whose primary responsibilities were:

(i) To set rules and institute machinery for cooperation whereby external economic obstacles to development could be eliminated, e.g., restrictions on market access, the debt burden, insufficient financial flows, excessive fluctuations in exchange rates and interest rates;

(ii) To adopt special bilateral or multilateral measures for the weakest and most vulnerable countries;

(iii) To strengthen arrangements and actions designed to handle global problems such as the environment, drug control, etc.

47. Within the international community, States and institutions must contribute to exercising these responsibilities in the light of their resources and their importance in the world economy. Hence, the most powerful countries bore major responsibility in coordinating macroeconomic policies to ensure a context of sustained growth and a stable and predictable international environment. 6/

48. The system of shared responsibility for the realization of the right to development must be extended to other actors, in particular to non-governmental organizations and other sectors representing the various forces in civil society as actors with primary responsibility for participatory development as well as to actors in the private sector as creators of wealth and hence agents of growth.

49. As those specific systems of joint responsibility were sketched out, the global, integrated framework of partnership for the realization of the right to development could in turn be increasingly well defined. Ultimately, that framework - which was necessarily subject to evolution - could contribute to supplying basic guidelines for international cooperation, which would then be able to contribute effectively to the realization of the right to development.

F. Department for Economic and Social Information and Policy Analysis of the Secretariat

50. The Department for Economic and Social Information and Policy Analysis observed that, considering that the meaningful implementation of the right to development required an array of analytical tools for monitoring and assessing the achievement of development objectives, it was generally recognized that reliable systems of statistical indicators of economic and social developments were indispensable, among other tools, for that purpose, as the Commission on Human Rights underlined in calling for the Seminar on Appropriate Indicators to Measure Achievements in the Progressive Realization of Economic, Social and Cultural Rights, which was held at Geneva from 25 to 29 January 1993.

51. The Department submitted that there were many such statistical indicators, for which the basic framework was provided by the System of National Accounts which had recently undergone a major revision resulting in the publication of the 1993 System of National Accounts. 7/ That was the result of a cooperative effort by the Statistical Division of the Department, OECD, the Commission of the European Communities, IMF and the World Bank.

52. In addition, the Department referred to the United Nations Handbook of Social Indicators (1989), 8/ which reviewed comprehensively the sources, methods and selection of indicators needed for measuring the achievement of social and economic development and welfare objectives.

G. Department of Peace-keeping Operations of the Secretariat

53. In its reply, the Department of Peace-keeping Operations stated that there was an important link between peace and development: the widespread occurrence of armed conflict between and within nations was perhaps one of the most important obstacles to development. It added that the Organization's efforts in the fields of peace-keeping and peacemaking might perhaps be viewed as important contributions to the establishment of peace as an essential precondition to the implementation and realization of the right to development.

54. In addition, it pointed out that political and social stability were prerequisites for development and growth. The establishment or restoration of such conditions required an effort by Governments and all parties involved with the assistance and support, as appropriate, of the United Nations, in particular the Departments of Peace-keeping Operations and Political Affairs.

H. United Nations Development Programme

55. UNDP submitted that it seemed that all UNDP activities were aimed at supporting the principles set forth in the Declaration on the Right to Development, which defined development as a comprehensive economic, social, cultural and political process and which took the human person as the central subject of the development process and considered the participation of the human person to be essential, not only as a participant but also as a beneficiary of the process.

56. UNDP action, which took the form of missions, projects, programmes or such processes as round tables, had made UNDP the most appropriate United Nations instrument for supporting development policy formulation. It helped make a reality of the principles enshrined in the Declaration, which stated in article 2, paragraph 3, that "States have the right and the duty to formulate appropriate national development policies".

57. UNDP support for national development processes went far beyond aid to policy formulation, notwithstanding its importance, and encompassed all of the areas relating to development. Thus, in addition to support for national development strategies, policies, plans and processes taken as a whole, UNDP action in support of development extended to all human needs, whether for "basic resources, education, health services, food, housing, employment" or "the fair distribution of income", all of which were explicitly covered in article 8 of the Declaration.

58. The aims covered in article 8 represented the very purpose of UNDP actions, whether they took the form of processes, programmes, projects or isolated activities. All those mechanisms were used to strengthen national capacities and develop human resources, while seeking to enhance and preserve natural resources.

59. UNDP was concretely engaged in the process of making its approach more operational, by conducting studies on the development profiles of various countries. Those studies were prepared for the use or the development of sets of social indicators and were aimed at interpreting development levels and processes from the point of view of human development.

60. Once the stocktaking was over and the diagnosis had been made, it would be possible, at both the international, national and even regional levels, to set objectives in terms of human development, formulate strategies in support of those objectives, design programmes and mobilize resources, in an exercise whose purpose would be none other than the implementation of the principles laid down in the Declaration.

61. Such prospects could not become a reality without the participation of all the parties involved in the development process, for which reason UNDP had in recent years considerably expanded its range of partners and modalities of action, in order to reach beyond Governments to the grass-roots communities. Other participants had therefore been approached by UNDP, such as the non-governmental organizations and the private sector, and special efforts had been undertaken, at both the theoretical and practical levels, to promote effective participation by women in national development processes.

62. Thus, although UNDP action was within the purview of United Nations relations with its Member States, and although its activities required the agreement and cooperation of the Governments that requested them, ways had been found to integrate other participants into the processes of formulating and implementing development programmes.

63. Too often development continued to be seen as the product and distribution of growth, whereas it should be possible to measure it and to translate it into objective terms, such as the number of families with housing, the number of persons decently fed and the number of individuals with access to primary health care, to cite just a few simple indicators, with no order of ranking.

64. It is true that progress was being made in considering development - as the Declaration emphasized - to be a comprehensive, economic, social, cultural and political process. In practice, however, much remained to be done to develop and implement genuinely integrated approaches, despite the numerous declarations on the subject of integration and the many appeals for coordination, both in international forums and national administrations.

65. The full development of individuals, like the success of the development policies and programmes that were supposed to pursue that ultimate objective, presupposed, as the Declaration emphasized, full participation by individuals in the decision-making processes that concerned them and not just a share in the benefits of those efforts.

66. Development aid, through transfers of resources and know-how, largely determined the chances of a substantial segment of humanity of escaping from underdevelopment. However, it had to be noted that, in addition to stagnating in relative value, aid was increasingly being redeployed for emergencies, thus delaying the chances of that segment of humanity of escaping from the vicious circle of extreme poverty and social breakdown and condemning it to be an eternal charity case.

67. In reply to the questionnaire prepared by the Working Group, UNDP submitted that the consensus at the World Conference on Human Rights around the Declaration on the Right to Development was very significant and enabled intergovernmental organizations like UNDP to play a role in disseminating information about the Declaration, in particular the opportunities it provided for an integrated approach to development that linked civil and political and economic, social and cultural rights. UNDP planned actively to disseminate information about the Declaration to its network of country offices, and to encourage debate around it. The Declaration provided an intergovernmental consensus for the type of integrated approach UNDP was promoting under the rubric of sustainable human development.

68. UNDP had been reviewing ways and means to strengthen its service to the United Nations system, to enable it to become a unified and effective force in assisting countries to achieve and sustain human development, the integrated vision of development it was evolving in the concept of sustainable human development.

69. A recent study of UNDP operational activities in order to refine and operationalize the concept of sustainable human development had found that the development community concentrated on physical, human and natural capital but payed insufficient attention to social capital, i.e., relations between people. It underlined the need for more attention to social capital through building coalitions and consensus behind development approaches.

70. The Declaration's role in strengthening the links between democracy, human rights and development was decisive, given that there was now an intergovernmental consensus behind such an approach. The importance of those links had been recognized by Governments and development agencies, e.g., in governance programmes that linked State modernization and reform to strengthening institutions of human rights. UNDP supported such programmes in response to country requests. The Declaration would enable the international community to move farther and faster in that regard.

71. The right to development had been raised in UNDP programmes since the mid-1980s, although not through the formal discussion or adoption of the Declaration. Particularly since the fifth programming cycle, 1992-1996, UNDP target areas had included poverty and people's participation, management of development, the environment, women and technology. UNDP was commissioning a paper, in follow-up to the Vienna Declaration and Programme of Action, to review the impact of its development activities on human rights. The conclusions and recommendations of that paper would enable the organization to implement further the right to development.

72. There was a need further to develop indicators in order to assess progress in achieving the right to development. The UNDP human development index was a contribution to that process. The challenge still remains to evolve cross-sectoral indicators (such as the "greening" of the index), as well as for other tools to assess the quality of progress. A great deal could be achieved in terms of building national consensus around development priorities, which was essential for progress but was harder to measure. Moreover, given that the right to development was an integrated approach to development, there was a need for methodologies on multidisciplinary, cross-cutting approaches to development, which UNDP would be working on as part of its contribution to developing the sustainable human development concept.

I. Division for the Advancement of Women of the Secretariat

73. In its reply, the Division for the Advancement of Women sent the report of the Secretary-General on women in urban areas: population, nutrition and health factors for women in development, including migration, drug consumption and acquired immunodeficiency syndrome, 9/ prepared for the thirty-eighth session of the Commission on the Status of Women.

74. Some of the major points of its conclusions and recommendations were that a holistic and integrated approach to urban development, involving partnership and the participation of the public, private and community sectors, must involve both women and men at all stages of the development process, from identification through decision-making to implementation.

75. One of the most critical issues for women in cities was urban land tenure and property relations. Legislative reform which removed obstacles to women's access to land ownership and which protected women in terms of property was a vital first step in addressing gender imbalances in the city.

76. Poverty, alcohol and drug abuse, overcrowding, the absence of communal space and competition for scarce resources led to domestic violence and social tensions in cities. Social conflicts affected women, men, boys and girls and the elderly differently. Violence in cities was related to domestic violence in households across all income groups, affecting women and children in particular.

77. Gender relations in the arena of urban politics were not yet well articulated. At a conceptual level, the notion of governance, which referred to relations between civil society and the State, offered a useful entry for thinking about gender relations in the city. Given the active engagement of women in urban-based struggles, the empowerment of women in civil society, politics and State structures was a basic requisite for good governance. In addition, housing policy and programmes needed to recognize the particular constraints faced by women and women who were heads of households in gaining access to housing.

78. Rural women who maintained food security and the general well-being of their families/households and who were capable of raising living standards through profitable use of remittances from urban workers were an important link between rural and urban areas. Improving the status of rural women and their control over resources should be considered as strategically important in efforts made at all levels towards fostering rural and urban development.

79. Access to nutritionally adequate and safe food was a right of each individual. National and local governments should ensure access to a nutritionally adequate food supply at the urban-household level. In addition, population and reproductive health programmes should be placed in the broader context of primary health care services and should define reproductive choice as a basic right and a health issue which respected the dignity and privacy of women.

J. United Nations Environment Programme

80. In addressing the Working Group, UNEP stated that the right to develop could not be viewed outside the environment where it would be exercised, whether political, social, economic, or, first of all, physical. Development only made sense if properly integrated into all those dimensions. The threats to human life were increasing in scope and intensity. Disregard for human rights could not be dissociated from disregard for nature and the environment at large, since both inevitably led to environmental destruction through the imbalance and conflicts they generated. The right to develop was directly affected by the sometimes irreversible deterioration of the environment.

81. The World Conference on Human Rights had recognized, in the Vienna Declaration and Programme of Action, that illicit dumping of toxic and dangerous substances and wastes constituted a serious threat to the human rights to life and health of everyone. To the waste issue must be added the dangers posed by the depletion of the ozone layer, dangerous chemicals, marine pollution, pollution of the air, water and soils, the disappearance of natural species and habitats, the deterioration of human settlements and the rapid loss of

environmental traditional knowledge by indigenous people of how to manage their environment.

82. The right to develop therefore entailed a duty to protect the environment and the life of future generations at all levels by both Governments and the peoples of the earth. It also implied the full recognition of the rights of individual States over their natural resources as stated in Principle 21 of the Stockholm Declaration of the United Nations Conference on the Human Environment, 10/ which stated that States had, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control did not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. That principle had since been reaffirmed in many declarations and treaties, including the Declaration on the Right to Development. Access to resources was becoming an increasingly essential element of the development process.

83. At the international and regional levels, it was urgent, in particular, to implement fully the various environmental conventions, action plans and programmes which would guarantee people's right to a safe environment and open perspectives for sustained development.

84. In that connection, the recommendation made in Agenda 21 11/ that Governments, when making priorities for future law-making on sustainable development, might include an examination of the feasibility of elaborating general rights and obligations of States, as appropriate, in the field of sustainable development, as provided by the General Assembly in resolution 44/228 of 22 December 1989 on the United Nations Conference on Environment and Development. Such a review would contribute significantly to removing obstacles to development and creating conditions favourable to the development of peoples and individuals in a long-term perspective.

85. At the national level, the design of sustainable development policies and plans should receive high priority, as recommended at the United Nations Conference on Environment and Development.

86. The global partnership for sustainable development advocated by Agenda 21 was closely related to the question of the right to development. The obstacles to a clean environment and a proper management of natural resources and global commons would inevitably have negative repercussions on the right of people to develop. The Declaration on the Right to Development rightly stated that the human person was the central subject of development and should be the active participant and beneficiary of the right to development. Sustainable development placed human concerns at the heart of the development process so that the environmental and developmental needs of present and future generations were met.

K. United Nations Environment Programme/Convention on Biological Diversity

87. In its reply, the interim secretariat of the Convention on Biological Diversity drew attention to the importance of preservation of biological diversity as an element of the strategy of the international community for achieving sustainable development. The Convention, opened for signature during the United Nations Conference on Environment and Development, fully recognized that necessity.

88. The promotion of international, regional and global cooperation among States and intergovernmental organizations and the non-governmental sector was an important tool, under the Convention, for the achievement of such objectives. Therefore, concrete provisions of the Convention were devoted to financial resources, access to and transfer of technology to developing countries as well as technical and scientific cooperation including exchange of information and experience.

L. Office of the United Nations High Commissioner for Refugees

89. UNHCR submitted that in addition to its mandate of providing international protection to refugees and finding durable solutions to their problems, and as part of the need to find such solutions, strong measures in countries of origin must be taken in order to prevent and resolve refugee flows. Those measures included preventing the conditions which forced people to leave their country of origin. In that sense prevention included a range of activities by the international community in the promotion of human rights, early warning and granting protection and assistance to the internally displaced.

90. It was often disregard for human rights which produced refugees and which, in consequence, had a significant impact on the development of the country of origin through the loss of human resources, skills, and breakdown of family and cultural ties. It should also be recognized that refugees in countries of asylum often faced great obstacles, including legal barriers, in pursuing opportunities for education and employment. That undermined the human resources potential of the refugee population in the asylum country, as well as in the country of origin when they were able to repatriate voluntarily.

91. Moreover, as concerns voluntary repatriation, which was the preferred solution for the vast majority of refugees, the role of UNHCR was to provide returning refugees with protection and assistance aimed at their reintegration in society. However, the success of voluntary repatriation often depended in large part on overcoming obstacles to the right to development in the refugees' country of origin. In that regard it should be further noted that many refugees were returning to countries whose economic structures have been undermined, if not destroyed, by armed conflict. An examination of obstacles to achieving the right to development in situations of post-conflict peace building might be a topic which the Working Group on the Right to Development wished to pursue.

M. United Nations Population Fund

92. In addressing the Working Group, UNFPA observed that population variables (fertility, mortality and migration), as well as population policies and activities, were of crucial importance to the right to development because they reflected three key aspects of that right, namely, dignity, freedom of choice and the individual's sense of responsibility.

93. Although those three key periods of an individual's existence were important from the point of view of the right to development, it was clear that there was a logical - and chronological - order in establishing the conditions that make possible the exercise of that right, or, on the contrary, prevent it. Freely choosing to give life and to decide on the number and spacing of births were the very basis of the right to development in the sense that reproductive rights set the conditions for acquiring and exercising the other elements that were an integral part of the right to development. On the other hand, it might also be said that the conditions of death might be a result of the enjoyment or non-enjoyment of the right to development. The very high maternal mortality rates seen in countries where women could not exercise their reproductive rights were a direct illustration of the links between those different elements.

N. World Food Programme

94. WFP observed that it had taken action in a number of different development sectors and activities relating to the right to development.

95. The connection between food aid and the right to development assumed greater clarity when the right to food was placed in its proper context as the most fundamental of all human rights and a precondition to development. By providing food as relief during emergencies or as a resource in support of development activities, WFP promoted, in a concrete way, the achievement of the right to food and contributed towards laying the foundations on the basis of which the goals envisaged in the Declaration on the Right to Development could be achieved. The right to development was seriously in jeopardy whenever the right to food could not be fulfilled.

96. Food aid could be used to accelerate development and self-reliance by removing the obstacles that prevented nations and peoples from exercising the right to development. Food aid was also viewed by WFP as contributing to human development since the rations provided, which were always directed to the poor, alleviated the serious effect of undernourishment on human development.

97. To say that the problems of hunger, poverty and underdevelopment that faced developing countries were essentially structural was not to suggest any lessening in the immediate humanitarian efforts needed to meet urgent needs for food, debt relief and increased net capital and technological transfers. But it was necessary to ensure that ways were found to meet those needs without making the underlying situation worse. On the contrary, short-term measures should increasingly be tailored towards re-enforcing long-term solutions. The experience of WFP demonstrated that food aid used properly could contribute

substantially to increasing food production, which was a vital necessity for promoting self-reliance and, ultimately, the right to development.

98. From WFP experience there were a number of important lessons if poverty and hunger were to be overcome and people's right to development assured. The most important might be briefly summarized:

(a) An appropriate overall economic policy framework and a commitment by Governments in developing countries to policies that explicitly addressed the problems of poverty, hunger and the right to development were essential;

(b) Resources were required on a much greater scale if poverty and hunger were to be eradicated speedily and sustainably. Not only would greater resource transfers be required, but a redirection of current resources - internal and external - would also be necessary;

(c) As the causes of poverty and hunger were multifarious, so too should be the measures taken for their eradication. There was no single solution and there were no quick fixes;

(d) While increasing food production on a sustainable basis was an important, even daunting, requirement, it alone would not solve the problem of hunger and the right to food. The world food production problem was not synonymous with the world hunger problem. Ensuring access, or "entitlement", to food by the poor was vitally necessary. That could best be assured on a sustained basis by increasing their productivity, employment, incomes and assets, and hence their purchasing power. It also implied that in combating hunger, the necessary policies and programmes must extend beyond the food and agricultural sector;

(e) The poor and hungry were not a homogeneous group. There were important differences between, for example, small subsistence farmers, pastoralists, the landless and the urban poor, that affected the causes of their hunger and the coping strategies they could use to combat hunger. The poor had been skilled at devising strategies that made the best use of limited resources and opportunities to reduce their vulnerability to hunger. Resources should, therefore, build on, or reinforce, those strategies;

(f) Women played pivotal roles in food security both as producers and as key decision-makers in food consumption. Those roles should be fully recognized and supported;

(g) The pursuit of increased production and productivity must be on an environmentally sustainable basis, treating the earth in such a way that it could meet the needs of future generations.

99. In the view of WFP, any constructive measures aimed at promoting the right to development should take into account the following essential points:

(a) The right to development should be pursued from the point of view of the human person as the central subject of development. In that connection,

increasing attention should be paid to promoting human resources development as the bedrock of true self-reliance;

(b) Governments should play the lead role in those efforts, with the United Nations and other donor countries and organizations playing a facilitating or catalytic role;

(c) The right to development and the right to food were inextricably linked and therefore efforts to remove obstacles in the way of the latter should be consciously integrated into broader programmes and activities to promote the former;

(d) Efforts to promote effective implementation of both the procedural and substantive aspects of the Declaration must go beyond the dissemination of information and educational and research activities.

III. COMMENTS RECEIVED FROM SPECIALIZED AGENCIES

A. Food and Agriculture Organization of the United Nations

100. FAO observed that, given the mandate and role of FAO, the constraints and problems affecting the right to development related principally to the provision of adequate food and nutrition to ensure optimum physical and social well-being of the population, which was from the point of view of the individual nothing more than the most important of human rights, the right to food.

101. The development of a world food security system that facilitated the process of assessing and monitoring the food security situation at the global, regional, national and household levels, as well as ensuring that the countries facing serious problems receive the appropriate technical aid and training, had been one of the major themes pursued by FAO in recent years. The main objective of food security was to ensure that all peoples at all times had both the physical and the economic access to the basic foodstuffs they needed to lead healthy lives, and as such was the principal means through which the right to food could be articulated. The main aspects of food security were related to food availability, stability in the flow of supplies and access to food, especially by those who were the most vulnerable.

102. At the International Conference on Nutrition in December 1992, representatives from 159 countries and the European Economic Community recognized the right to adequate food and nutrition and declared their commitment to ensuring that right in the World Declaration and Plan of Action for Nutrition in the following words:

> "We recognize that access to nutritionally adequate and safe food is a right of each individual ... Bearing in mind the right to an adequate standard of living, including food, contained in the Universal Declaration of Human Rights, we pledge to act in solidarity to ensure that freedom from hunger becomes a reality."

103. For several decades, the right to adequate food and nutrition had been recognized by the international community. However, obstacles denying millions of people that right continued to exist. Those constraints originated in varying political, economic and social spheres and converged upon those individuals who, on a day-to-day basis, simply did not have the necessary means to achieve nutritional well-being. Achieving good nutrition was considered an essential component of developing strategies not only because it was necessary for raising the productive capacities of individuals but, more importantly, because it expanded intrinsic human choices by allowing people to enjoy longer and healthier lives.

104. It was increasingly recognized that the most important cause of that situation, and therefore the main obstacle to achieving the full enjoyment of the right to food by every individual, was poverty. Thus, the obstacles to the right to food were essentially the same as those that hindered the eradication of poverty. In the developing world, where the majority of the world's poor lived, those obstacles were inextricably linked with obstacles to development, particularly with obstacles to agricultural and rural development. In that respect, it should be noted that the majority of the world's poor earned their living by producing food and in most poor countries employment and income opportunities in all sectors, not just agriculture, were closely linked to how productive agriculture was in those countries, which in turn depended on the capability of people to be effective and productive agents, the relative endowments of natural resources, and the availabilities of man-made physical capital.

105. Thus, inequities in land and income distribution, lack of education and training and barriers to access to inputs, including those embodying new technology, as well as to services, markets and finance, constituted important economic and social impediments to the realization of the productive potentials in agriculture and to the enjoyment of the right to development.

106. Both direct and indirect discriminatory practices in the public and private domains denied certain groups such as women, children, minorities, indigenous groups, refugees, the elderly, the disabled, and others the opportunity for a nutritionally adequate diet.

107. Another constraint was the lack of cooperation and coordination between groups providing assistance to those suffering from malnutrition. Governments, United Nations agencies, private industry, non-governmental organizations, communities and others should coordinate their efforts to secure that right to all citizens. Thus, limited resources could be directed more effectively to reach those most in need.

108. There must also be improved assessing, analysing and monitoring of the food and nutrition situation in order to demonstrate accurately the magnitude of the problem and to develop programmes to target vulnerable population groups. Early warning and food information systems should be established in areas where potential famine and malnutrition were imminent.

109. Man-made disasters caused by civil wars and the collapse of economic and political systems and the vagaries of nature were persistent characteristics of

food insecurity around the globe and constituted the most immediate threat undermining the right to adequate food and nutrition. Although such emergency food security problems might not appear to have an immediate bearing on issues related to the right to development, there were two aspects of food emergencies that were directly related to the obstacles to the implementation and realization of that right. First, whatever the cause of a food emergency problem, if the productive capacity in the afflicted regions could not be quickly restored, an emergency situation could transform itself into one of chronic food insecurity affecting the development process itself. Secondly, unless significant inroads were made into strengthening the productive base of agriculture through the economic and social development process, vagaries of the weather would continue to hinder periodically the enjoyment of the right to food, especially in the vulnerable areas.

B. International Labour Organization

110. ILO submitted that it was very pleased to see the discussion of development issues within the human rights framework of the United Nations. That reinforced the close link that ILO felt should exist between the human rights and development aspects of the work of the United Nations system. ILO considered that it was impossible to divorce those two aspects of the work from each other, and that it was artificial to keep the "development agencies" and the human rights bodies of the system in separate compartments.

111. The right to development was inherent in the objectives set for ILO in its Constitution as far back as 1919, which might be summarized as the search for peace founded on social justice through the improvement of conditions of work, which ILO undertook to achieve through the adoption of international labour standards in the tripartite setting of the ILO Conference as well as through the provision of technical cooperation, including services and assistance to formulate and implement national policies, programmes, laws and regulations. In a new approach, ILO was implementing an active partnership policy, which was putting 14 multidisciplinary teams into the field to put its policies into practice and to bring assistance closer to the constituents of ILO.

112. The ILO mandate for social justice ruled its approach to development questions. Development must be a balanced economic and social process aiming at the human person's material well-being and spiritual needs, in which respect for basic workers' rights - which were one of the fundamental aspects of human rights - constitute both a condition and an incentive.

113. Current ILO activities relevant to the right to development existed in the following areas:

(a) Equality of opportunity and treatment. ILO addressed the restriction of the right of certain groups or categories to participate in development through discrimination based on race, sex, social origin or other considerations, through a particular focus on the occupied Territories and Eastern Europe;

(b) Women. Equal opportunity and treatment for women and their full integration in development was another basic concern of ILO, echoing that of article 8 of the Declaration on the Right to Development. ILO had adopted specific standards aiming at equality of remuneration, the elimination of all discrimination on the grounds of sex or family responsibilities in matters of employment and occupation and the protection of maternity. ILO was also in the process of completing a two-year special project aimed at integrating women's concerns into all aspects of the ILO programme, especially in development assistance. Access to means of economic production through the provision of credit, training and the establishment of cooperatives, was extremely important. That often meant trying to remove the obstacles to women's participation in development that arose from tradition, from law, from religion, and more generally from their exclusion from participation in the decision-making process;

(c) Indigenous and tribal peoples. Another group suffering badly from exclusion from the decision-making process was indigenous and tribal peoples. There were some 300 million of them around the world, on all continents and in most countries. In the area of indigenous and tribal peoples, for historical reasons, ILO was responsible for the only international standards ever adopted for those peoples. Because of that exclusion from the decision-making process as it affected them, they were unable to contribute to adapting national and international development programmes to their own specific needs. That exclusion and past discrimination were the major obstacles to their development. In that field, as in others, the different organizations of the United Nations system had conflicting definitions, mandates and means of action concerning indigenous and tribal peoples. That might mean that the measures taken to assist the development of those peoples could be counterproductive for the people concerned. The International Year of the World's Indigenous People, 1993, went some way towards helping to coordinate within the system, but more had to be done in that respect;

(d) Child labour. The existence and persistence of child labour was in itself both a result or lack of development and an obstacle to development in the future. Child labour arose from poverty, and contributed directly to it. ILO was completing a two-year interdepartmental project to integrate child labour concerns into a wider range of ILO activities and to find effective strategies for combating and overcoming it;

(e) Forced labour and freedom of association. Forced labour and freedom of association were vital concerns of ILO work for development and human rights. The violation of those rights was an obstacle to development, and their realization was a positive contribution to the right to development. ILO worked closely with the United Nations supervisory bodies in monitoring the implementation of those rights, particularly in the context of the International Covenant on Economic, Social and Cultural Rights, and also through other mechanisms. ILO also devoted considerable energy to the implementation of those rights through its own supervisory work and through its practical assistance to Governments and to employers' and workers' organizations;

(f) Employment and extreme poverty. Denial of the right to development in its most aggravated and massive manifestation was found in the conditions of

extreme poverty in which hundreds of millions of people were living today, mostly in third world countries. That was closely linked to the question of employment, and to ILO efforts to promote full, productive and freely chosen employment, a vital means of achieving the realization of the right to development. Measures for achieving that were laid down in the ILO Employment Policy Convention (No. 122, 1964) and its supplementing recommendations.

114. Related to that issue, ILO had been carrying out a special interdepartmental project during the present biennium on the question of structural adjustment. A potential conflict existed between notions of economic and social development and the price of ignoring social development in promoting economic development alone. That was a subject on which ILO sometimes found itself in disagreement with the international financial institutions, and where ILO insisted that the needs of social development and social protection be taken into account.

115. Concerning the question of how to measure development, ILO suggested strongly that the criteria laid down in international standards be taken as the benchmark. The Declaration on the Right to Development, which saw the human person as the central subject of the process, was the essential benchmark. That took up in more detail what was laid down in terms of "rights" in the International Covenants on Human Rights. ILO was committed to the principle that the human person was the centre of development, affirmed by the Declaration of Philadelphia and in turn developed in tremendously greater detail by the ILO conventions and recommendations adopted over the past 75 years. Reference to international standards would afford the further advantage of making available the mechanisms for evaluating and stimulating progress in the achievement of the aims of those standards, and thus in the achievement of the right to development. Existing supervisory mechanisms of ILO and the United Nations could well be taken as the basis for the process.

C. International Monetary Fund

116. IMF submitted that predictable implementation of sound macroeconomic and financial policies lay at the core of a country's ability to realize the right to development, but that such implementation, in turn, depended upon broad public support and understanding of such policies. Further, in that implementation the social dimensions of economic policies must form an integral part of any policy package, as must the unique needs and situation of each country.

117. In recent years IMF had given increased attention to encouraging and supporting the efforts of member countries to promote social objectives during periods of adjustment and reform, through both policy advice and technical assistance. The main contribution the Fund could make to the social dimension of growth and development was to strive to improve performance in its own area, macroeconomic adjustment and reform. After all, sustained economic growth, and macroeconomic stability on which it depends, were necessary conditions for social progress and, above all, for the reduction of poverty.

118. IMF, however, was of the opinion that experience with so many structural programmes in all parts of the world showed that one of the most frequent cases of failure or delay in their implementation was not errors in design, or a shortage of international financing, or resistance by the poor to temporary hardships associated with adjustment, but resistance of vested interests to the strengthening of the tax base that was needed to meet effectively the cost of even minimal and strictly targeted social safety nets.

119. In that respect, IMF underlined the fact that it was only the macroeconomic pillar of the system of global cooperation and not the social pillar and that its work in pursuit of social objectives could only be developed in association with other institutions within the United Nations system.

120. IMF underscored the linkage between democracy, development and the enjoyment of human rights. Thus, economic progress depended upon an effective development strategy rooted in a supportive global, economic and trading system, which could not succeed in the absence of social progress that harnessed the vitality, energies and ingenuity of the individual. Those in turn required enjoyment of and respect for human rights, as any exclusion of parts of the population would undermine both the moral and the economic dimensions of social progress.

121. As one of the economic institutions of the United Nations system, IMF was entrusted with helping to assure attainment of growth and development of the productive resources of all members within a globally cooperative setting. Today, achievement of the high levels of employment and real income and the sustained development of the productive resources of all the members required "quality growth". It was the task of IMF to help to assure that the economic impediments to achieving quality growth were recognized and overcome, if necessary through processes of "structural adjustment".

122. The Fund's basic task was to support such considered adjustment, whose success depends on four elements: (a) the design of sound macroeconomic policies; (b) an appropriate development strategy, including efficient resource development and allocation and supportive external financing; (c) the design of social policies; and (d) the active support of an open, rule-based trading and investment system. To assure the first task, the cooperative efforts of all individual actors were crucial, those in the private and the public sector, at home and in the international community, including the United Nations agencies.

D. United Nations Educational, Scientific and Cultural Organization

123. UNESCO submitted that in its contributions to the World Summit for Social Development, it hoped to reaffirm the central role of the notion of development, its multidimensional character and its ethical foundations. In some of the activities anticipated in preparation for the Summit it hoped to examine the relationship between cultures and development, emphasizing cultural diversity. A book exploring the different aspects of the concept of "the right to development", including the obstacles to its implementation and realization, would be one of the outputs foreseen.

E. World Bank

124. In addressing the Working Group, the World Bank stated that its vision of economic development and its strategy to attain it were fully compatible with the concept of the right to development.

125. The World Bank believed that poverty alleviation and the ways it tried to pursue it were essential preconditions for the promotion and protection of all economic, social and cultural rights. The Bank's emphasis on poverty reduction was seen as the overarching objective of development and its focus on education, health, nutrition and family planning as key instruments to improve the living standards of the poor and to enable them to participate in development. In the Banks' view the ultimate success of that strategy would give full meaning to the concept of the right to development.

126. In its concept of development, the Bank focused on the notion of sustainability of development, which suggested that whereas growth was necessary for development, growth was but one condition for sustainable development, the others being how growth was managed, in what form it occurred, who benefited from it and who participated in it. There was also an increased emphasis on the quality of governance as there was a close correlation between transparency, accountability and the rule of law in the management of economic processes.

127. The Bank had become increasingly involved in institutional development, as clear correlation between the strength of the institutional framework and the developmental impact and sustainability of economic programmes and projects.

128. The right to development and its implications in terms of specific political, economic, social and cultural rights were being dealt with by the Bank not as legal but as economic and technical issues. In other terms, in the Bank's paradigm, development issues were addressed not as rights and obligations, but as goals and means.

129. In the Bank's view, its Articles of Agreement did not contradict human rights law, nor were they inconsistent with the concept of interdependence, indivisibility and universality of human rights. The Bank acknowledged that development encompassed economic, social, cultural, environmental and political aspects, but it could not consider them as "rights".

130. In the long run, the Bank's work, which in its view promoted economic, social and cultural rights, was likely to lay the foundations for the promotion of political rights as well.

F. World Health Organization

131. WHO expressed its commitment to the letter and spirit of the Declaration on the Right to Development. It submitted information pertaining to emergency and humanitarian action; environmental health; the global programme on acquired immunodeficiency syndrome (AIDS); health promotion and education; development of human resources for health; intensified cooperation with countries; maternal and

child health and family planning; substance abuse; and strengthening of health services, based on the submission of its various divisions.

132. Disaster meant acute interruption of development in the area hit by disaster. The individual and collective rights to health and development were adversely affected by emergencies. While disasters were negatively affecting development by draining resources necessary for development, underdevelopment was increasing the disaster vulnerability of those countries. To ensure the right to development in the health sector, disaster prevention, reduction and preparedness should be built into the developmental plan of the country. That included early warning.

133. Accepting that development was a "human right", that development could not take place without some modifications to the environment and that human health, the primary consideration, was dependent on the environment, a basic component of any planning and/or strategy to satisfy that "right" must contain health as an integral component. The right to development and the right to health were interdependent, with the environment forming the linkage. They therefore had to be planned for together if the needs of both were to be satisfied. Also, development not only related to improvements in economic terms but must have included improvement in the conditions of the environment, the reduction in risks to the environment and the improvement in health status resulting from environmental improvements and safeguards.

134. The widespread stigmatization and discrimination experienced by people living with human immunodeficiency virus (HIV)/AIDS denied those individuals, and often their families, the enjoyment of many of the critical aspects of the right to development. For persons living with HIV/AIDS, that discrimination included denial of employment, education, housing, freedom of movement and the right to privacy, as well as access to health care and support. In that context, HIV/AIDS and related discrimination impaired the full enjoyment of the right to development for people living with HIV/AIDS.

135. People had the right to know and learn about health issues and problems. However, there was still insufficient dissemination of pertinent information on health to individuals, families, communities and to society as a whole. There was also a lack of continuous mobilization of social forces and social organizations in favour of health. In addition, there was still a lack of awareness and/or understanding, mainly among decision makers and local leaders, of health as a human right and of the interactions between health and development.

136. WHO had long given priority to the careful development of human resources for health. With good planning, training and management and an appropriate balance between the different categories they could make a major contribution to the health of a nation. Often, however, health personnel were in the wrong proportions with respect to each other, in the wrong geographic locations or in inappropriate types of institutions. Sometimes they spent too much time on activities that made a limited contribution to health. Moreover, many countries had trained more health workers, or a higher proportion of the more expensive categories, than their economies could support.

137. The right to development was inherent in the strategy of intensified WHO cooperation with countries and peoples in greatest need. That strategy was country-focused and country-specific, in contrast to the more usual programmatic approach of WHO, and was aimed at the poorest of the poor: the poorest countries and the poorest groups within those countries. It aimed to combat and lessen inequities in the health system, especially as they affect disadvantaged groups such as women, children, the elderly, migrant workers, etc.

138. To ensure close and effective coordination in that approach, active partnerships had been built up with other United Nations agencies and bilateral development agencies to support specific activities at local and country levels. Those partnerships were important, especially in countries facing great social inequities and even violations of human rights, where pressures from the international community towards improving equity could facilitate significant changes.

139. Human development was both the foundation and the objective of social development. The health problems of women and children had their origins in the inherently vulnerable stages of the cycle of reproduction, growth, development and maturation. Failure to meet the growth and development needs at one stage adversely affected subsequent stages. At no stage was that vulnerability greater and its lifelong impact so profound for both mother and infant as during pregnancy, delivery and the immediate postpartum period.

140. Unequal access to health care and food, excessive work at times of rapid growth, denial of equal opportunity for education and obstacles to reproductive health left a woman physically, socially and mentally unable to exercise her full rights to personal and social development, unable to protect herself from unwanted pregnancies or sexually transmitted diseases.

141. Problems related to psychoactive substance use might impede the full realization of the right to development, inter alia, where Governments supported promotion, production and consumption of licit drugs such as tobacco and alcohol or where they assigned irrationally huge resources for the "war against drugs" in developing countries, while only token funds were invested by the international community in promoting programmes that recognized the human person to be the central subject of development.

142. The basis of world health policy was social justice. Clearly, if that was not respected, there would be no development. The right to health preceded the World Conference on Human Rights and it was now universally recognized that equity and basic human needs must remain the primary concern of social development strategy. The wide disparities in living conditions and in opportunities must be reduced, with special attention to rural areas and urban slums. The importance of coordinated efforts by the social and economic sectors was clear. Those making decisions on economic policy must be informed of the implications of their policy for the health and social conditions of the various population groups.

143. The relationship between health status and socio-economic development had been amply demonstrated. In developed countries, the communicable diseases that were once the principal causes of mortality had been controlled by improvements

in living conditions, nutritional status, sanitation and health behaviour, and that had been done before major discoveries were made regarding their cure and treatment. In the low-income countries, health development had become part of the national economic strategy, which sought to provide the poor with access to resources and economic opportunities, raise educational levels, ensure the availability and distribution of food, improve the status of women and provide the basic infrastructure of transport and other public amenities. Involvement of the underprivileged in the effort to improve their own health was crucial.

144. A challenge faced by many countries was how to safeguard health and health care for the underprivileged in adverse circumstances, such as the adoption of economic adjustment policies. It was essential for ministries of health (and the ministries dealing with other sectors) to identify essential services which the Government should fund as a priority. Inequities in health and health care must be brought from obscurity into the spotlight of national debate.

145. Governments must take the lead in formulating equity-based health policies and strategies. In developing health policies, it was important to distinguish between differences in health and health care. Reduction of differences in health status required broad-based government action involving all sectors. Government macroeconomic adjustment policies, stabilization programmes and pricing reforms had important affects on the health of the underprivileged. Measures needed for health care improvement lay within the mandate of the health sectors. Policies should establish targets for the improvement of the health of underprivileged groups.

146. For most industrial and many developing countries, the challenge was one of political will. The biggest challenge in future was to develop a partnership between individuals, communities, districts, countries and the global community. The partnership had to be actively developed; it could not be taken for granted.

IV. COMMENTS RECEIVED FROM REGIONAL COMMISSIONS

A. Economic Commission for Europe

147. ECE submitted that its mandate was restricted to economic issues only and that so far it had not monitored the implementation of the right to development. However, it stood ready to provide in the future any relevant inputs, related to its work programme, which might be of interest to the Working Group.

B. Economic Commission for Latin America and the Caribbean

148. ECLAC observed that all of its work programme activities were all related to development. In its view, the main obstacles to the right to development in the region, notwithstanding the advances in the political and economic arenas, were the highly regressive effects of economic adjustment, the consequent increase in poverty, the widespread worsening of income distribution, and social inequalities which appear to have widened.

149. ECLAC studies showed that in the early 1990s, nearly 200 million Latin Americans (46 per cent of the total population) could not meet their basic needs, while 94 million (22 per cent of the population) were living in extreme poverty. This upsurge in poverty had even affected population groups employed in the public sector and in medium- and large-scale enterprises, i.e., groups outside the low-productivity sectors of the labour market.

150. If the fruits of growth were not distributed fairly, and if the gap between rich and poor widened and deepened as a result of behaviours such as conspicuous consumption, adherence to the system weakened. The current extreme disparities of income in Latin America and the Caribbean and the fact that vast sectors of the population were mired in poverty posed a challenge to the region which not only was an ethical imperative, but also had potentially serious repercussions on social and political stability.

151. In many cases, poverty and exclusion were concentrated in groups which, because of their ethnic background, age, social status, place of residence or gender, were marginalized or discriminated against with regard to access to the benefits of development. Although targeted programmes for their benefit and mechanisms for positive discrimination in their favour were undoubtedly necessary, paternalistic attitudes which could accentuate their cultural and social marginality by according them special treatment, and which might encourage an opportunism that increased their dependence on the State, should be avoided.

152. In view of the foregoing, the main concern was to generate effective equality of opportunity for all social groups. That meant not only avoiding discrimination, but also providing those whose opportunities had been deferred with the tools and assets they needed to integrate themselves effectively into the system. An obvious sphere of action in that regard was the correction of the judicial, legal and rights-related inequalities that had prevailed to date, which affected women by impeding the development of their potential and validating the cultural images underlying discrimination. There was an emerging consensus that the situation of women would not improve substantially unless they are empowered to exercise all the rights of citizenship. That meant that men and women must have equal freedom of choice in their relations with each other and with society, including equality in political participation, decision-making and the exercise of power.

153. The main requirement for gradually overcoming poverty was economic expansion, but there was also an important function for the State, which had an indispensable role to play in poverty reduction, ensuring equality of opportunity so that everyone could become involved in development, especially through policies to provide short- and medium-term assistance to sectors living in extreme poverty and groups that could not be assisted through the job market. Such functions could be carried out through guaranteeing an effective allocation of funds to social welfare and public services, while ensuring that the poorest groups had access to their benefits. On the basis of baseline studies of sectoral deficiencies and vulnerable groups, an appropriate balance could be struck between universal and targeted programmes from which vulnerable groups such as unemployed and poorly educated youth and female heads of household could be better addressed.

154. The ECLAC proposals stressed the impossibility of finding solutions to social problems without taking an approach that linked economic and social policies in innovative ways, while strengthening democracy and environmental sustainability. At the same time, the globalization of the economy and of communications and the transnational nature of social phenomena such as migration and environmental problems showed that "social issues" could not be isolated as internal problems and indicated promising opportunities for international and regional cooperation on social development.

C. Economic and Social Commission for Asia and the Pacific

155. ESCAP submitted that it was pleased to note that the Commission on Human Rights had decided to establish a Working Group on the Right to Development.

156. ESCAP implemented a wide-ranging programme of activities for economic and social development in Asia and the Pacific, all of which conformed broadly to the decisions contained in the Declaration on the Right to Development. Of particular relevance is the social development strategy for the ESCAP region towards the year 2000 and beyond, which had been adopted in October 1991.

157. ESCAP referred to the regional Ministerial Conference in Preparation for the World Summit for Social Development to be held at Manila in October 1994, which was expected to adopt a regional social development agenda for the ESCAP region into the twenty-first century. The agenda would also contain a number of decisions conforming to the Declaration on the Right to Development.

V. COMMENTS RECEIVED FROM REGIONAL INTERGOVERNMENTAL ORGANIZATIONS

A. European Commission

158. The European Commission submitted its annual report on the implementation in 1993 of the European Community's resolution on human rights, democracy and development, adopted by the Council and the member States meeting in the Council in November 1991. The report described the positive actions supported by the Commission to help the developing countries and the measures taken by the European Union and its member States in the event of serious infringements of human rights and/or the breakdown of democratic processes. Priority areas in doing so included the following: (a) operations linked with the exercise of public authority such as strengthening the rule of law at the institutional level and in terms of transparency of public administration and operations to support consultation of the population, especially in countries making the transition to democracy; (b) operations to strengthen civil society, including support for local associations and their membership organizations, freedom of the press and strengthening of education schemes; and (c) support for vulnerable groups.

B. League of Arab States

159. LAS submitted that the right to development was one of the most important issues in the present-day world since it reflected the extent of the advancement and progress of peoples although some, if not most, States were still facing numerous difficulties of various types in their development programmes. Some of those difficulties related to economic aspects while others concerned political, cultural or environmental aspects in those States.

160. Since the adoption by the General Assembly of the Declaration on the Right to Development the enjoyment of that right had become an increasingly important concept. In that regard, LAS commended the positive and important steps that the Commission on Human Rights was taking, through the competent Working Group, to give effect to that right, as well as the measures that it had taken to promote and strengthen the implementation of the Declaration on the Right to Development.

161. With regard to the questionnaire prepared by the Working Group on the Right to Development it could be said that the right to development, as stated in the Declaration on the Right to Development, played an important role in the planning and implementation of programmes and projects for development cooperation, as indicated in the new agreement reached by the international community at the World Conference on Human Rights.

162. In the view of the League, the implementation and follow-up of programmes and projects for development cooperation necessitated planning and coordination between the various organs of the United Nations in order to give full effect to that right. That could be achieved only through the formulation of programmes by the United Nations and its relevant organs with a view to eliminating the obstacles that were impeding the realization of that right and which were unquestionably posing many complicated problems since they related to economic, social, cultural and environmental aspects of the internal or international situation of States.

163. The obstacles encountered in that regard consisted of the lack of adequate coordination between the United Nations, its various organs and the States concerned since, in that regard, all States must cooperate in order to ensure the operation of a mechanism to monitor and implement the Declaration on the Right to Development, bearing in mind the need for coordination and solidarity with the United Nations through facilitation of the elimination of internal obstacles or through adoption of the recommendations of the Working Group on that right, which would undoubtedly be highly instrumental in making every State aware of the obstacles impeding the realization of this vitally important right of peoples. That confirmed that the strengthening of links between democracy, human rights and development in the manner proposed in the Vienna Declaration and Programme of Action would strengthen the right to development. The World Conference sought to promote that concept by emphasizing the need for the international community to support the least developed countries that were committed to the process of establishing democracy and achieving economic development, since democracy, human rights and development were closely interlinked and none of them could be achieved independently of the others. The achievement of democracy required respect for human rights, since violations of

human rights had an adverse impact on democracy and development could not proceed and flourish without respect for the human rights that were guaranteed in constitutions and local laws. In other words, democracy must be applied. The Declaration on the Right to Development emphasized the need to promote those three principles and the World Conference on Human Rights, in turn, stressed that concept in the manner proposed and agreed upon by States in the Vienna Declaration and Programme of Action.

164. At international conferences and symposia, LAS had frequently stressed the need for the enjoyment of the right to development and the need had been reaffirmed in the working paper submitted by the Arab Group to the World Conference on Human Rights. The League had shown special concern for the issue of the right to development and had submitted it, on more than one occasion, to the Arab Standing Committee on Human Rights as a separate agenda item. In that connection, resolution 5248, adopted on 13 September 1992 at the ninety-eighth regular session, had approved the promulgation of an Arab Declaration on Development, Indebtedness and Human Rights which emphasized that the international endeavours being made to uphold and protect human rights should be accompanied by endeavours to establish a new equitable and balanced economic and financial order. The Declaration had also referred to the adverse effects of indebtedness on the inalienable human right to enjoy a life of freedom and dignity and stated that nations, as well as individuals, were entitled to equality of opportunity in regard to development.

165. With regard to ways and means towards the realization of the right of development by all States, the recommendation of the League could be summarized as follows:

(a) All external debts should be cancelled or converted into grants;

(b) The interest rate should be lowered or abolished;

(c) Debts should be rescheduled on more favourable terms and, in particular, the time-limit for the repayment of loans should be extended;

(d) The financial resources available to the developing countries should be increased;

(e) Loans should be offered on easy terms by, for example, increasing the time-limit for repayment at low interest;

(f) International organizations and financial institutions should provide more assistance to support development projects in the developing countries;

(g) Customs barriers should be reduced; better facilities should be provided to enable the exports of the developing countries to enter the markets of the wealthy developed countries; and the terms of trade should be made more favourable to the developing and indebted countries;

(h) Emphasis should be placed on the need to incorporate considerations relating to the right to development in the lending policies of major financial institutions such as the World Bank and the International Monetary Fund and

particular importance should be attached to the transfer of advanced technology to the developing countries and to the need to help them to develop their economies and to improve their internal situation in order to overcome their economic problems;

(i) Criteria should be formulated to prevent some States from misusing human rights as a pretext to intervene in the internal affairs of developing countries and halt the provision of economic assistance to those countries to the detriment of their development endeavours.

166. International cooperation undoubtedly played a positive and important role in eliminating the obstacles that were impeding development in the developing countries. Accordingly, the wealthier countries had a responsibility to make a significant contribution to the promotion of development and to eliminate all the obstacles and impediments to the implementation of the Declaration on the Right to Development so that the developing countries could keep pace with world-wide progress and development.

C. Organisation for Economic Cooperation and Development

167. OECD submitted that the multifaceted trap of underdevelopment with its consequences for human health, nutrition, education, life expectancy and human dignity produced many obstacles to implementing the right to development, but real progress had been made in understanding and achieving development progress in diverse societies.

168. The Development Assistance Committee of OECD was deeply committed to the goals of development and so is its servicing directorate, the Development Cooperation Directorate.

169. A recognition of the obstacles which underdevelopment raised to the full enjoyment of human rights was touched upon in a paper prepared by the Development Assistance Committee on orientations on participatory development and good governance. The paper took as its point of departure the vital connection between open, democratic and accountable systems of governance and respect for human rights, and the ability to achieve sustained economic and social development. That connection was so fundamental that participatory development and good governance must be central concerns in the allocation and design of development assistance.

170. The "areas for action" throughout the paper identified a sample of close to 100 measures, from the wide-ranging to the highly specific. They ranged from targeted measures to strengthen legal or accounting expertise to broad-based action to reduce excessive military expenditure, to multifaceted action in support of human rights and effective participation and to strengthen civil society.

171. One of the approaches adopted was that the human being was the central subject of development, as recalled by the World Conference on Human Rights in the Vienna Declaration and Programme of Action.

172. Participatory development could be defined as a process by which people took an active and influential hand in shaping decisions that affected their lives. Popular participation might involve long and difficult processes, but it brought many benefits: the contribution of local knowledge to activities; an increased chance of objectives and outputs being relevant to perceived needs, greater efficiency and honesty of officials and contractors because they were under public scrutiny; "ownership" of the activity by community-based organizations. Through empowerment, participation could also lead to increased knowledge and skills, and the distribution of power among individuals and communities, thus improving social equity.

173. Democratization integrated participation into the political life of the country and provided a basis for legitimacy of government. A wide variety of entry points existed for initiating democratization and, on the part of donors, for providing appropriate support. Assisting democratization should be viewed as a long-term process.

174. It was useful to distinguish between three aspects of governance: the form of the political regime, the process by which authority was exercised in the management of a country's economic and social resources; and the capacity of government to formulate and implement policies and discharge government functions. The rule of law, public sector management, controlling corruption and reducing excessive military expenditures are important dimensions of governance.

175. The paper further referred to paragraphs 8 and 10 of the Vienna Declaration and underlined the fact that effective development cooperation on human rights required programmes for motivating and training donor agency staff generally, in addition to those directly involved in reporting on human rights situations, and building aid agency capacity to design and pursue promotional policies.

176. OECD drew attention to the research programme for 1993-1995 of the OECD Development Centre on challenges for the mid-1990s, which, inter alia, focused on subjects such as globalization and competition: State and corporate strategies; sustainable development: environment, resource use, trade and technology; financial systems, resource allocation and growth; and international migration and development.

177. If development faltered or failed, the income gap between North and South continued to widen, population growth was unchecked, global environmental problems were aggravated and many of the poorest countries excluded from the world economy, international stability and security would be undermined, and the economic and social development of all participants in the world economy would be gravely compromised. Those problems had led the Development Centre to renew both its fields of study and its methods to try to assess, on the one hand, the impact of increased world interdependence on OECD member countries and, on the other, the new challenges facing policy makers in the developing countries. In addition, given the urgent nature of certain issues, it had appeared necessary to supplement the traditional in-depth studies on major themes by short-term projects involving less intensive but incisive research that can rapidly provide the various OECD committees with bases for reflection, thereby contributing to

better horizontal integration of the Centre's work with that of the rest of the organization.

Notes

1/ E/CN.4/1993/16.

2/ E/CN.4/1994/21 and Corr.1 and 2.

3/ For the report of the Working Group on its second session, see E/CN.4/1995/11.

4/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 18 (A/33/18), annex V, p. 109.

5/ See Proceedings of the United Nations Conference on Trade and Development, Eighth Session, Report and Annexes (TD/364/Rev.1) (United Nations publication, Sales No. E.93.II.D.5), part one, sect. A.

6/ Ibid., part two, sect. A.

7/ A System of National Accounts, Studies in Methods, Series F, No. 2, Rev. 3 (United Nations publication, Sales No. E.69.XVII.3).

8/ United Nations publication, Sales No. E.89.XVII.6.

9/ E/CN.6/1994/3.

10/ Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1992 (United Nations publication, Sales No. E.73.II.A.14 and corrigendum, chap. I.

11/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1)) (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex II.

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ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS

Establishment of a Peace-keeping Reserve Fund

Report of the Secretary-General

1. The purpose of the present report is to update annexes I and II to the report of the Secretary-General on the establishment of a peace-keeping reserve fund (A/48/622), of 19 November 1993 for the period ending 31 October 1994.

2. Annex I provides a summary status of the Peace-keeping Reserve Fund and indicates that a balance of $204,353 was available as at 31 October 1994. Total receipts to the Reserve Fund amounted to $65,104,353 and consisted of transfers from the United Nations Transition Assistance Group (UNTAG) ($46,993,969) and the United Nations Iran-Iraq Military Observer Group (UNIIMOG) ($17,261,810), interest income ($496,585) and a voluntary contribution ($351,989). An amount of $85,744,221 was still due to the Reserve Fund consisting of funds to be transferred from the United Nations General Fund ($82,601,038) and from UNTAG ($2,248,793) and UNIIMOG ($894,390).

3. Loans have been made to four peace-keeping operations amounting to $64,900,000. Annex II provides the information on the utilization of the Reserve Fund by month from November 1993 to October 1994.

Annex I

SUMMARY STATUS OF THE PEACE-KEEPING RESERVE FUND AS OF 31 OCTOBER 1994

(In United States dollars)

Authorized level of the Fund			150 000 000
(a) Transfers to the Fund pursuant to General Assembly resolution 47/217, operative part, subparagraph (f) (i)			
(i) From UNTAG	46 993 969		
(ii) From UNIIMOG	17 261 810		
	64 255 779 a/		64 255 779
(b) Interest income			496 585
(c) Voluntary contribution b/			351 989
Total receipts, (a) + (b) + (c)			65 104 353
(d) Outstanding loans to peace-keeping operations			
United Nations Observer Mission in El Salvador	6 000 000		
United Nations Angola Verification Mission	19 000 000		
United Nations Transitional Authority in Cambodia	37 900 000		
United Nations Observer Mission in Liberia	2 000 000		
Total	64 900 000		64 900 000
Available balance, (a) + (b) + (c) - (d)			204 353
(e) Due to the Reserve Fund			
From the United Nations General Fund c/	82 601 038		
From UNTAG d/	2 248 793		
From UNIIMOG c/	894 390		
Total	85 744 221		85 744 221

(Footnotes on following page)

(Footnotes to table)

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a/ Includes the amounts of $21,441 and $34,747 being transferred from UNIIMOG and UNTAG respectively.

b/ Voluntary contribution from Switzerland.

c/ To be transferred from the amount of $154,881,112 that has been retained in the General Fund pursuant to General Assembly resolution 42/216 A of 21 December 1987.

d/ Represents unpaid assessed contributions.

Annex II

UTILIZATION OF PEACE-KEEPING RESERVE FUND

November 1993-October 1994

	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
	1993		1994									
Receipts	65.0	65.0	65.0	65.0	65.0	65.0	65.0	65.0	65.0	65.0	65.0	65.1
Loans outstanding												
United Nations Observer Mission in El Salvador	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
United Nations Angola Verification Mission	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0
United Nations Transitional Authority in Cambodia	37.9	37.9	37.9	37.9	37.9	37.9	37.9	37.9	37.9	37.9	37.9	37.9
United Nations Observer Mission Uganda-Rwanda	0.4	0.5	0.7	0.7	0.7	-	-	-	-	-	-	-
United Nations Observer Mission in Liberia	-	-	0.2	0.2	-	-	-	-	2.0	2.0	2.0	2.0
United Nations Assistance Mission for Rwanda	-	-	1.2	1.2	-	-	-	-	-	-	-	-
Total loans	63.3	63.4	65.0	65.0	63.6	62.9	62.9	62.9	64.9	64.9	64.9	64.9
Available balance	1.7	1.6	-	-	1.4	2.1	2.1	2.1	0.1	0.1	0.1	0.2